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Plaintiff Escalante Exhibit 1F--Proposed Single District Map of District 32 (Tarrant County): Large easel-size map not reproducible in a printed appendix. Original map contained in the original record in the clerk's office. (For similar map, see Plaintiff Escalante Deposition 1F).

Plaintiff Escalante Exhibit 2A--Tarrant County Census Tract Information: Bulky exhibit not reproduced in printed appendix because all other relevant data cited therefrom is contained in other exhibits.

Plaintiff Escalante Exhibit 2B--Tarrant County Block Information: Bulky exhibit not reproduced in printed appendix because all other relevant data cited therefrom is contained in other exhibits.

N O T A T I O N

The following items appear in an appendix to the Jurisdictional Statement at the paged noted and are not reprinted in this appendix:

Opinions of the lower court. . . 1A

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DOCKET ENTRIES

GRAVES, ET AL.

V. A-71-CA-142

BARNES, ET AL.

(Full title omitted in printing, docket entries prior to June 22, 1973 omitted)

6-25-73	92- Slip Opinion Supreme Court U.S. (See (A-71-CA-143)
6-18-73	92- MOTION TO INTERVENE (SEE CIVIL A-73-CA-115 for list of Intervenors) filed. with copy of Complaint in Intervention attached. Motion & Order to Judge Justice for signature.
6-18-73	93- Authorities in Support of Motion to Intervene, filed.
6-25-73	94- Slip Opinion Supreme Court U.S. filed (See A-71-CA-143)
8-7-73	95- Motion to Intervene in instant case and A-71-143, 144, & 145 filed (Dave Richards Attorney)
8-17-73	96- Motion to Intervene in instant case and A-71-143, 144 & 145, filed by James Gaskin, Charles Puente, Bobby G. Webber, Dorothy Perez & Richard Quevedo and Barbara Nelson (see A-73-CA-146-Atty, Norman M. Bonner, Jr.) Copy to Judges w/Compt.

8-17-73	97- Authorities in Support of Motion to Intervene, filed. Copy to Judges.
8-17-73	98- Order entered by Managing Judge William Wayne Justice to all attorneys
See p. 93	-order-briefs re jurisdiction & issues in this case, filed. Copy to all attorneys.
9-4-73	98a- Brief of Defts. on Quest. of Jurisdiction & Power of This Court & Remaining issues, filed. A-71-CA-142, 143, 144, 145.
9-5-73	99- Brief of Plaintiffs, George Willeford, et al, Regarding the Appropriateness of Further Proceedings, filed. (A-71-CA-142, 143, 144, 145) Copy to 3 Judges
9-5-73	100- Motion to Intervene filed by Franklin R. Sears, Rev. C.A. Holliday, Alan McNeill, Walter S. Smith, Jr., Harrell Z. Browning, Vincent Kemendo, William C. Davidson, Jr., Joe Summers, Jr., and C.B. Garcia. Copy to 3 judges. (A-71-CA-142, 143, 144 & 145) Also copy to Judge Roberts since they are motioning to Intervene in A-73-CA-115)
8-31-73	101- Memorandum as to Further Proceedings on continued jurisdiction, filed by Diana Regester (A-71-CA-143)
9-10-73	101- Memorandum as to Further Proceedings on continued jurisdiction, filed by Diana Regester (A-71-CA-143)

9-10-73	102- Amicus Curiae Brief of Tarrant County Intervenors on Question of Continuing Jurisdiction filed (Ind. Suit A-73-CA-115), filed. Copy to Judges by atty.
9-28-73 (filed 10-3-73)	103- Order entered Recusing Judge Roberts and consolidating all cases of Action A-71-CA-142, 143, 144 & 145; A-73-CA-115, 146 and 155, filed. Copy to all attorneys in all cases (for hearing only.)
10-4-73	104- Order entered by Managing Judge Wayne Justice setting trial date of Dec. 3, 1973 at 9:00 a.m., at Austin. Order also grants all petitions for intervention pending before the panel. (Original Order filed herein)
10-4-73	105- Compalint in Intervention filed by Plaintiffs in A-73-CA-115. Copy to Judges with copy of Motion & Brief in Support (with exhibits attached)
10-4-73	106- Compalint in Intervention filed by Plaintiffs in A-73-CA-146). Copy to Judges.
10-4-73	Motion of party Plaintiffs Charles Wright (Travis Co.), et al, filed by Dave Richards, Attorney, granted by Order of Managing Judge Justice, filed Oct. 4, 1973 (No separate Complaint was filed by these Intervenors)

10-18-73	107- Motion to Intervent filed by Rosa Maria Gonzalez, Moreno, et al (in A-71-CA-142, 143, 144 & 145 only) Copy to 3 judges with proposed Order to Managing Judge Wayne Justice (Copy of Complaint in intervention also forwarded and original in file)
10-19-73	108- Motion to Intervene filed by Collis E. Cannon and Cleveland Nisby (in all Seven cases)(Dave Richards Attorney) Copies to Judges.
11-6-73	109- Interrogs to Defts. filed by Pltff-Intervenors Charles Wright, et al. Copy to Judges.
11-13-73	110- Order setting Nov. 26 for briefs to be filed. Copy to attorneys & Judges
11-15-73	111- Interrogatories to Defendants filed by Pltff Dr; Willeford & Pltff Intervr. Franklin R. Sears.
11-21-73	112- Deposition of Robert L. Gilbert (taken by Plaintff), filed. (in this case file)
11-23-73	113- Answers and Objections to Interrogatories filed by Defts. Mark White & Dolph Briscoe in response to interrogs propounded by Pltff-Intervenors Charles Wright, et al, filed. (filed in this A-71-CA-142)
11-23-73	114- Motion for Leave to File A Brief,

	As Amicus Curiae filed by Texas Women's Political Caucus, filed. (in A-71-CA-142, (includes all cases)(and Brief in support)
11-26-73	115- Order by Managing Judge Justice for deposit of $4,000 to expedite preparation of transcript ($2,000 each by Deft. & Pltff-Intervenors) and that each party supply list of witnesses for hearing for Dec. 3 by NOV 3, 1973 at 9:00 A.M. Deposit in Clerk's office by Dec. 3, 1973 at 9:00 a.m., filed. Copy to Judges and all parties' attorneys.
11-27-73	116- Depositions of Joyce Wendell Sifford, Fischer and Johnson filed (with Exhibits as Doc. #'s 22, 23, and 24 in A-73-CA-115)
*11-23-73	117- Motion for Leave to File an Amendment to Complaint (to litigate for lawful Claim for attorney's fees) with proposed Order and Proposed Amended Complaint attached by Plaintiff-Intervenors (in A-73-CA-115, Doc't #25)
*11-23-73	118- Trial Brief for Pltiffs-Intervenors Tarrant County, Dist. 32, filed. (Doc. #26 in A-73-CA-115)
11-29-73	119- Depositions of William B. Oliver, III and Oevelance Nisby, filed (in all cases)
11-30-73	120- Oral Deposition of L. DeWitt Hale filed (in all cases)

11-30-73	121- Oral Deposition of Terry Doyle, filed (in all cases)
11-30-73	122- Oral Deposition of Felix McDonald filed (in all cases)
11-30-73	123- Oral Deposition of Madison Sowder filed (in all cases)
11-30-73	124- Deft. Attorney General, State of Texas, Witness list for hearing set for Dec. 3, 1973, filed, in accordance with order of Nov. 26.
11-30-73	125- Deposit of $2,000.00 by State of Texas Voucher for DEFTS., FILED.
11-30-73	126- Witness List of Plaintiff Intervenors Wright, et al, Moreno, et al and Sears, et al, filed.
11-30-73	127- Briefs of Regester, Willeford, Bernal, Chapman and Pltff Intervenors Moreno, et al, Sears, et al and Wright et al, filed.
11-30-73	128- Deposition of Jessie Rangel, filed.
11-30-73	129- Oral Deposition of Froy Salinas, filed with exhibit.
11-30-73	130- Deposition of Rev. Rodney Howell, filed with exhibit.
12-3-73	131- Western Union Money Order Message from Mexican American Legal Defense Fund in amount of $700.00 as Pltiff-Intervenor Wright, Moreno, et al deposit (one-third of $2,000 per Order of Nov. 26, 1973.

12-3-73	132- Trial Brief for Plaintiff-Intervenors Gaskin, et al, filed.
12-3-73	133- Motion to Take Judicial Notice of Testimony Given at a Former Trial, filed by Pltiffs-Escalante, et al (A-73-CA-155, their orig. complt)
12-3-73	134- Stipulation as to Plaintiffs' Escalante, et al, Exhibits 1a and O, filed.
12-3-73 3 Judge Hon. Woods, Justice, & Thornberg.	135- Minutes of CIVIL PROCEEDINGS, FILED. Motion to File an Amicus Curie Brief by Tex. Women's Political Caucus, Granted. Opening Statements made by Don Gladden and Norman Bonner for Escalante (Terrant Co.) Larry York for Atty General reserved his statements for later time. Exhibits Intrdced-all received and admitted except for 16, 17 and 21 for which objections were made (later admitted by Court) Witnesses sworn and testimony on behalf of Excalante begun. Depositions of Johnson, Difford and Betty Fischer admitted. Written objections to be presented to Court as to certain Depositions by Dec. 4th. - Escalante rests. Witnesses sworn and testimony on behalf of Gaskin Begun. Objections of Mr. Richard as to certain legislative bills-Overruled-Tarrant Co. rests. Testimony on behalf of Intervenor, Chas, Wright begun-Exh. 1-28 admitted-opening State-

ments made by Mr. Richards (Jefferson Co., et al). Court adjourned until Dec. 4, 9:00 a.m.

12-3-73 136- Tarrant Co. Witnesses Sworn list, filed.

12-3-73 137- EXHIBITS LIST, FILED-Pltinff-Intervenor GASKIN.

12-3-73 138- EXHIBIT LIST: Pltff-Intervenors-Wright, et al-filed.

12-3-73 139- Complaint in Intervention filed by Rosa Maria Gonzalez Moreno, et al. (attorney: Mexican Amer. Leg. Def. Fund, George J. Korbel, attorney)

12-3-73 140- Escalante EXHIBIT LIST, FILED.

12-3-73 141- Moreno, INTERVENORS EXHIBIT LIST, FILED.

12-4-73 142- MINUTES OF CIVIL PROCEEDINGS, FILED. Testimony on behalf of Intervenors Moreno et al and Wright resumed. Exhibits for Republican-Plaintiffs #10-#15 admitted. Court adjourned until Wednesday Morning at 9:00 a.m. (3-Judge) (all Counties except Tarrant)

12-4-73 143- Wright, Moreno Pltff-Intervenors WITNESS SWORN LIST filed.

12-4-73 144- Republican Plaintiff's Exhibits List, filed. (Copy with Ex's 10-15 in Ex. Room.)

12-5-73 145- Minutes of CIVIL PROCEEDINGS FILED. Testimony on behalf of Intervenors,

	Wright, Moreno, et al resumed. Additional Exhibits for Wright admitted #29-32 and others) All Counsel agreed to waive final arguments and to file extensive briefs with Court. Plaintiffs Intervenors rest. Testimony on behalf of Defts. begun. Attorney General's (defts) Exhbs #1a-#41 admitted (and others) Briefs to be submitted by DEC 21st (1 copy for each Judge and one for Clerk of Court's office file.
12-5-73	Minutes of civil proceedings Dec. 5 continued ..... Case taken under Advisement by 3 Judges (adjourned)
12-5-73	146- Intervenor Chapman (Pltff) Exhibits list filed. (copy with Exh. #1 only filed) in exhibit room.)
12-5-73	147- Defendants' Exhibits List filed (Attorney General's office, State of Texas) Copy with exhibits in exhibit room)
12-21-73	148- Order entered extending time to submit briefs to Dec. 28th no later than 5:00 filed-all attorneys notified by Judge Justice' office by phone.
12-24-73	149- Motion to Substitute Party (Jack Warren, Chrmn Exec. Rep. Party for George Willeford, former chrmn), filed.
12-27-73	150- Post Submission Brief on Behalf of Plaintiff Warren and Republican Intervenors filed (R. James George, Jr., Attorney).

12-27-73	151- Post Trial Brief for Plaintiffs Charles Wright, et al and Wanda Chapman et al, filed (David Richards, Attorney)
12-28-73	152- Post Trial Brief for Plaintiff-Intervenors Gaskin, et al, filed. (Norman M. Bonner, Jr. attorney)
12-28-73	153- Trial Brief for Plaintiffs Escalante, et al (Tarrant County Dist. 32)(Don Gladden, attorney)
12-28-73	154- Post Submission Biref of Defts White and Briscoe, filed. (Elizabeth Levatino, Spec. Asst. Attorney Gen., attorney.)
1-2-74	155- First Amended Complaint in Intervention filed by Moreno, Pltff. (Korbell, atty for Maldef)(copy to Judges by attorneys)
1-2-74	156- Plaintiff's Moreno, et al Post-Trial Brief, filed. (Korbel, attorney)
*12-24-73	-Out of Order Notation: Statement received from Dorothy Daugherty, 2928 Pollard, Tyler, Texas 75701 for hearings held Dec. 3-5, 1973. $2.133.00 due.
1-7-74	157- Letter signed by three Judge stating Pltfs and Intervenors file proposed redistricting plans for Court's consideration for each district represented by said counsel prior to 1-12074 & counsel for deft should file its plan prior to 1-18-74 filed.

1-8-74 158- Order signed by three judge filing deadline for office of State representatives (providing that an application to have one's name placed on ballot as a candidate for nomination by a political party shall be filled not later than 6:00 P.M. Feb. 18, 1974 & that (providing that the county chairman shall file with county clerk of his county a list of all candidates within 10 days which will be Feb. 28, 1974 filed copies mailed to all attys all judges & Party chairmans.

1-11-74 159- Legislative Redistricting Plan and Supporting Brief of Pltf-Intervenors Gaskin, et al. (Legislative District 32) filed.

1-11-74 160- Proposed Plan of Apportionment of the Lubbock County Multi-Member District into Single Member Districts filed.

1-11-74 161- Proposed legislative district plan for Travis County (with accompanying descriptive data filed

1-11-74 162- Proposed legislative district plans for counties, Galveston, McLennan & Jefferson with accompanying descriptive data attached filed.

1-11-74 163- Proposed Plan of Apportionment of the Nueces County Multi-Member District into Single Member Districts filed.

1-14-74 164- Letter dated Jan. 11, 1974 to all parties from managing Judge William Wayne Justice re error in Exhibit #1 submitted by Attorney Richards on behalf of plaintiffs, Wright, et al. Attorney Richards to respond by 5:00 p.m., Wed. Jan. 16, 1974; stips or objections to response to be filed by 5:00, Jan. 21, 1974.

1-14-74 165- Proposed Redistricting Plans for Tarrant, Travis, McClennan, Lubbock, Nueces, Jefferson & El Paso Counties (by Republican Pltffs)(El Paso Co. also submitted on behalf of Pltff Moreno), filed (R. James George, Atty). (Galveston County also included but not mentioned in transmittal letter)

1-14-74 166- Proposed plan lines of Plaintiffs-Intervenors, Escalante, et al (Tarrant County), filed (attorney Don Gladden)

1-16-74 167- Corrected Exhibit 1 filed by Attorney David Richards (Wright Pltff-Intervenors) in keeping with Court's letter of 1-14-74.

1-16-74 166- Addendum to porposed plan filed by Escalante, et al (A-73-CA-115) Don Gladden, attorney.

1-21-74 168- Letter dated Jan. 18, 1974 from Attorney R. James George, Jr. (Reps. Pltffs) re submitted

1-23-74 169- Proposed Plans submitted through Attorney General, State of Texas relating to Tarrant and Nueces Counties filed

1-24-74 170- Letter from Managing Judge Justice to Counsel (dated Jan. 18, 1974) advising proposed single-member plans will be discussed at hearing set for 9:00 A.M., Jan. 28, 1974. Opinion and order of Court will be forthcoming shortly after the hearing. (Also stating Dists. #7, 32, 35, 37, 48, 72 & 75 are unconstitutional)

1-24-74 171- ALL NON-PARTY PLANS submitted in compliance with Omnibus Order entered Oct. 4, 1973, filed. 11 plans submitted as follows:

a. District #80, submitted by Joe Pentony-Representative-9 Counties

b. District #32, submitted by Doyle Willis, Representative-Tarrant.

c. Nueces County, submitted by L. DeWitt Hale

d. Tarrant County, submitted by Citizens for Reform, Harold D. Hammet, Chrmn.

e. McClennan County submitted by Lyndon Olson, Jr. & Lane Denton, Reps.

f. Travis County submitted by Democrat Executive Committee

g. El Paso County submitted by Ronald D. Coleman, St. Rep.

h. Tarrant & Parker Counties, Sub'd by-Citizens, Sherman, Hilliard & Spurlock, II

I. Lubbock Hale & Swisher Counties-Sub'd by- Delwin Jones, Chrmn, House Redistg Comm. & St. Rep. McAlister, Member 63rd Session.

J. Jefferson County-Dist. #7-Submitted by-Committee Chrmn, Nelson Brocato and Webber.

k. Lubbock County-submitted by St. Reps. (Dist 75) McAlister and Tarbox.

l. Lubbock County, Submitted by James E. "Pete" Laney, representv.

m. Travis County Map Plan, submitted by HUB; Austin City Plan, submitted by HUB.

1-28-74 172- Revised plan for Rep. Pltffs for El Paso County, filed (one census tract only)

1-28-74 173- Proposed Single-Member Dist. Plan for El Paso County, Tx, submitted by Attorney Korbel, filed.

1-28-74 174- Letter dated Jan. 23, Judge Justice regarding unsealing non-party plans.

1-28-74 175- MINUTES OF CIVIL PROCEEDINGS FILED. Hearing on Proposed plans for single-member districts for #7, 32, 35, 37, 48 72 and 45. Testimony begun on Tarrant Co. Pltffs Wright & Moreno adopt Pltff

Escalante plan for Tarrant Co. Gladden Plan submitted. Pltff Gaskin Plan submitted. Republican Plan submitted, Deft, State of Texas Plan Z submitted. Testimony re Tarrant Co. concluded. Arguments presentd. Atty. Gladden argues for Escalante Plan; Atty. Bonner argues for Gaskin Plan; Atty George argues for Republican Plan. Moreno, et al announce support of Gaskin Plan. Ass't Attorney General York argues for Plan Z. Testimony on Jefferson County Begins: Pltffs Wright testimony presented and concluded. Republican Testimony began & Concluded. State of Texas Testimony began & concluded. All parties waive argument on Jefferson Co. McLennan County: All Pltffs announce agreement upon a plan. Tom Moore, Rep. from McLennan Co. submits plan of McLennan Co. Commissioners. (Exh. #1) State had not adopted Plan & presented no testimony. Repub. presented no testimony on their plan. Travis County: All parties Pltff announce agreement on Plan. No testimony presented on Republican Plan. State of Texas submits copy of Comm'rs Co. Precincts.

Civil Proceedings of hearing held Jan. 28, continued (from previous page)

Lubbock County: All Pltff Parties Announce no testimony to present.

Pltffs Wright & Moreno join in adoption of a plan Republc'n Plan - no testimony presented; State of Texas testimony begun. Moreno (Pltff) argues for Pltff parties' plan. El Paso County: All Pltff parties announce adoption of Coleman Plan (submitted, non-party) Republican-Moreno Plan is withdrawn. No Plan submitted by State of Texas for El Paso County. Nueces County: All pltff parties announce adoption of Mexican American Legal Defense Educational Fund Plan (Korbel. Attorney) State of Texas announces adoption of M.A.L.D.E.F. and Hale Plan (submitted by L. DeWitt Hale, non-party). Pltff's present rebuttal testimony for MALDEF Plan. Mr. Korbel argues in favor of MALDEF Plan. Republican Plan had no testimony to present. All Pltffs Rest. State of Texas Rests. Dave Richards, attorney for Wright-Intervenors stipulates 225 hours of time put into case since Order on Remand @$40.00/hour. COURT ANNOUNCES MAJORITY DECISION REACHED AS FOLLOWS: Tarrant County: Pltff-Intervenors Escalante plan adopted. Jefferson County: Wright-Pltff Intervenors Plan adopted. McLennan County: Wright-Intervenors Plan adopted. Travis County: Chapman-Wright Pltff Intervenors Plan adopted. Lubbock County: MALDEF Plan adopted. El Paso

	County: MALDEF and Coleman Plan adopted. Nueces County: MALDEF Plan. Judge John H. Wood Dissents and will file Dissent Memorandum Opinion by Noon Firday, February 1, 1974. Majority Opinion filed Jan. 28 (hearing date). Ordered that filing deadline with County Clerk be restored to Feb. 4 '74.
1-28-74	176- MEMORANDUM OPINION AND ORDER (MAJORITY) FILED. Copy to Judges and Attorneys (Final Judgment) (Judges Justice & Goldberg)
1-28-74	177- Order Pursuant to Opinion (Majority) filed. Copy to Judges and Attorneys.
1-28-74	178- Order rescinding Order of Jan. 8, 1974 (which extended filing deadline for candidates for House of Reps. of State of Texas to Feb. 28) and restoring Feb. 4, 1974, deadline. Copy to attorneys, Judges, affected Bounty Clerks, Party Chairman LaRaza Unida and Democrat & Republican parties.
1-10-74	*179- Order entered signed by three judges authorizing payment of $2,133.00 to Court Reporter for hearing transcripts (Hearing of Dec. 3-5, 1973)
1-28-74	180- Witness list, filed.
1-28-74	181- Deft, State of Texas Exhibit list filed.

1-28-74	182- Wright Intervenor-Pltff Exh. List filed.
1-28-74	183- McLennan County Commr's Exhibit #1 filed (Plan) and Escalante #26-27.
1-30-74	184- Notice of Appeal, to Supreme Court of U.S. from Memorandum Opinion and Order entered Jan. 28, 1974, filed. Copy to 3 Judges, Clerk, U.S. Supreme Court.
1-30-74	185- MEMORANDUM OPINION ANDORDER (DISSENTING) FILED. (Judge John H. Wood) Copys mld.
1-30-74	186- TRANSCRIPT OF PROCEEDINGS HEARD DECEMBER 3-5, 1974, VOL. I, II, & III, filed. (Original and One copy filed)
2-5-74	CLOSED
2-7-74	187- Certified copy of Supreme Court Order (Justice Powell) staying execution and enforcement of District Court Judgement Order dated Jan. 28, 1974, pending further Order of Supreme Court filed. Copy to attorneys.
2-15-74	188- Letter from Clerk, Supreme Court advising, "The motions to vacate the stay heretofore granted by Mr. Justice Powell are denied. Mr. Justice Douglas dissents, filed.
2-21-74	189- Letter from Ass't Atty. Gen. advising Clerk unnecessary to transmit

Case file to Supreme Court unless requested by Clerk of that Court filed

4-23-74 190- RECORD OF PROCEEDINGS, ORAL HEARING ON PRESENTATION OF PLANS HEAR AT AUSTIN, JANUARY 28, 1974, filed.

7-5-74 191- MOTION FOR RELIEF FROM JUDGMENT filed by Attorney for Intervenors Charles Wright, et al. Copy to Judges.

REGESTER, ET AL.

V. A-71-AC-143

WHITE, ET AL.

(Full title omitted in printing; docket entries prior to June 22, 1973 omitted)

6-22-74 126- Transmittal letter and slip opinion from Supreme Court filed 25 days until the Judgement or mandate will issue, fld.

8-7-73 127- Judgment from United States Supreme Court (Certified copy) fil'd. Affirmed in part and reversed in part; remanded to the U.S. Dist. Court for Western Dist. of Texas for further proceedings in conformity with the opinion of Supreme Court. Copy to 3 judges.

9-17-73 128- Brief Regarding Further Issues to be Determined by the Court Submitted by Dallas Republican Intervenors (Samuel Kail, Et al), filed. Copy to Judges. (3) (Dallas Republicans were Intervenors in A-71-CA-143 and 144)

10-4-73 129- Order entered by Managing Judge Wayne Justice setting trial date of DEC. 3, 1973 at 9:00 a.m. at Austin. Order also grants all petitions for intervention pending before the panel.

10-18-73 130- Motion to Intervene in A-71-CA-142, 143, 144 & 145 only by Rosa Maria Gonzalez, Moreno, et al (one copy only filed in A-71-CA-142 Instr. #107) (Legal Defense Fund)

10-19-73 131- Motion to Intervene filed by Collis E. Cannon & Cleveland Nisby (all 7 cases) Dave Richards, attorney-filed in No. A-71-CA-142

11-6-73 132- Interrogs to Defts. fild by Pltff-Intervenors Charles Wright, et al (filed in A-71-CA-142)

11-13-73 133- Order setting Nov. 26 for briefs to be filed. Copy to attorneys & Judges (filed in A-71-CA-142)

11-13-73 134- Interrogs to Defts filed by Pltff Dr. Willeford & Pltff Intervr. Franklin R. Sears (filed in A-71-CA-142)

11-21-73 135- Motion to dismiss suit against Roy Orr, Chrmn of St. Democratic Exec. Comm-as improper party; if not dismissed, this Committee adopts all pleadings & briefs of Secy of State, State of Texas. Filed in A-71-CA-143 and A-71-CA-144) Placed in this file)

1-7-74 136- Letter signed by three Judge stating Pltfs & Intervenors proposed redistricting plans due 1-12-74 & Deft 1-18-74 (see paper A-71-CA-142)

1-8-74 137- Order signed by three Judge granting deadline for all candidates for representative to 6:00 P.M. 2-18-74 and county chairman to 2-28-74 to get list county clerk (see paper A-71-CA-142)

1-11-74 138- Legislative Redistricting Plan and Supporting Brief of Pltf.-Intervenors Gaskin, et al. (Legislative District 32) filed (see paper in A-71-CA-142)

1-11-74 139- Proposed plans of apportionment for Nueces & Lubbock filed (see A-71-CA-142)

1-11-74 140- Proposed plans of apportionment for Galveston, McLennan & Jefferson filed (see A-71-CA-142)

1-11-74 141- Proposed legislative district plan Travis County filed (see A-71-CA-142)

(See docket sheet A-71-CA-142 for all docket entries during rehearing.)

1-28-74 Majority Memorandum Opinion and Order (Judges Justice and Goldberg) filed.*

1-28-74 FINAL JUDGMENT ORDER PURSUANT TO MEMO, OPINION, FILED.

2-5-74 CLOSED

*Minority opinion (Judge John H. Wood, dissenting) filed in A-71-CA-142 only)

6-7-74 142- Supreme Court U.S. Order that the Court has PROBABLE JURISDICTION A-71-CA-143, 146 & A-73-CA-115 filed.

GASKIN, ET AL.

V. A-73-CA-146

WHITE, ET AL.

(Full title omitted in printing)

8-17-73 1- Complaint filed.

8-17-73 2- Motion to Consolidate (with A-71-CA-142, 143, 144 & 145), filed.

8-20-73 Summons issued. Summons, 285, Complaint and Motion to Consolidate to Marshal for service. (and Authorities in Support of Motion)

8-17-73 3- Authorities in Support of Motion to Consolidate, filed.

8-23-73 4- Summons re/ex-Secy of State-8/20/73-Atkinson, DUSM $3.00

8-23-73 5- Summons re/ex-Gov'r of Texas-8/20/73-Atkinson, DUSM $3.00

9-10-73 6- Amended Motion to Consolidate, filed (with A-71-CA-142, 143, 144 & 145).

9-10-73 7- Motion for Extension of Time to File an Answer filed by Defts.

9-12-73 8- Order extending to 10 days after pltffs file 1st amended compt. copy to attorneys.

9-27-73	Copy of Motion to Consolidate, Complaint and Amended Motion to Consolidate to Judges Goldberg, Justice and Wood, Jr.
9-28-73	9- Order CONSOLIDATING with A-71-CA-115 and 155 & A-71-CA-142, 143, 144 & 145. (John R. Brown, Chief Judge, 5th Circuit). Instruments docketed from this date on A-73-CA-115) Letters re this order are in this file. (for hearing only)
10-4-73	10- Order entered by Managing Judge Wayne Justice setting consolidated trial date of Dec. 3, 1973 at 9:00 a.m. at Austin. Order also grants all petitions for in-' tervention pending before the panel.
10-19-73	11- Motion to Intervene filed by Collis E. Cannon & Cleveland Nisby. (In all 7 cases) Dave Richards Attorney-filed in A-71-CA-142 (#108)
10-25-73	12- Plaintiff's Amended Complaint, filed. Copy to Judges.
10-25-73	13- Deft's Original Answer to Amended Complaint, filed. Copy to Judges.
11-6-73	14. Interrogs to Defts. filed by Pltff-Intervenors Charles Wright (filed in A-71-CA-142)
11-13-73	15- Order setting Nov. 26 for briefs to be filed. Copy to attorneys & Judges (filed in A-71-CA-142)
11-15-73	16- Interrogs to Defts. filed by Pltff.

	Dr. Willeford & Pltff Intervr.Franklin R. Sears. (filed in A-71-CA-142)
1-7-74	17- Letter signed by three Judge Pltfs & Intervenors have 1-12-74 & deft to 1-18-74 (see paper A-71-CA-142)
1-8-74	18- Order by three Judge filing deadline for representatives 6:00 P.M. 2-18-74 and county chairman 2-28-74 to get list County Clerk (see paper A-71-CA-142)
1-11-74	19- Legislative Redistricting Plan & Supporting Brief of Pltf-Intervenors Gaskin, et al. (Legislative District 32) filed. See paper A-71-CA-142
1-11-74	20- Proposed Plans Lubbock & Nueces (see A-71-CA-142)
1-11-74	21- Proposed Plans Travis Co (see A-71-CA-142)
1-11-74	22- Proposed plans Galveston, McLennan & Jefferson (see A-71-CA-142)
	SEE DOCKET SHEET FOR A-71-CA-142 for all documents regarding rehearing held January 28, 1974)
1-28-74	Majority Memorandum Opinion and Order (Judge John H. Wood, filed in A-71-CA-142, only)
1-28-74	FINAL JUDGMENT ORDER PURSUANT TO MEMO. OPINION FILED.
1-30-74	NOTICE OF APPEAL, FILED. Copy to Judges & Supreme Court Clerk.

2-5-74 CLOSED JS-6-CARD Made.

6-7-74 23- Order Supreme Court U.S. has PROBABLE JURISDICTION filed (A-71-CA-143, A-73-CA-146 & A-73-CA-115)

CHAPMAN, ET AL.

V. A-73-CA-155

WHITE, ET AL.

(Full title omitted in printing)

8-28-73 1- Original Complaint filed. Summons issued. To Marshal with 285 and Complaint (2)

9-5-73 2- Summons ret/ex-Sec'y of State served 8-28-73-Atkison DUSM $3.00

9-5-73 3- Summons ret/ex-Gov. Drisco served 8-28-74-Atkison DUSM $3.00

9-17-73 4- Defs' Original Answer to Complaint, filed.

9-21-73 5- Order entered by Chief Judge John R. Brown, Fifth Circuit Court of Appeals, Consolidated this case with A-73-CA-115. Escalante, et al v. White, et al. Copy to attorneys. Copy in A-73-CA-115)

9-23-73 6- Deft's First Amended Answer, filed

9-28-73 7- Order of Chief Judge, 5th Circuit, Consolidating this case with A-73-CA-115, 155 and A-71-CA-142, 143, 144, 145, filed. Copy to all party attorneys (for rehearing only)

10-4-73	8- Order entered by Managing Judge Wayne Justice setting trial date of Dec 3, 1973 at 9:00 a.m. at Austin. Order also grants all petitions for intervention pending before the panel.
10-19-73	9- Motion to Intervene filed by Collis E. Cannon and Cleveland Nisby-in all 7 cases) Dave Richards attorney-filed in A-71-CA-142 #108).
11-6-73	10- Interrogs to Defts. filed by Pltff-Intervenors Charles Wright et al (filed in A-71-CA-142)
11-13-73	11- Order setting Nov. 26 for briefs to be file.. Copy to attorneys & Judges (fld in A-71-CA-142)
11-15-73	12- Interrogs to Defts filed by Pltff Dr. Willeford & Pltff Intervr. Franklin R. Sears. (filed in A-71-CA-142)
1-7-74	13- Letter signed by three Judge Pltfs & Intervenors have 1-12-74 & deft 1-18-74 to get any proposed redistricting plans (see paper A-71-CA-142)
1-8-74	14- Order by three Judge filing deadline for representatives 6:00 P.M. 2-18-74 & county chairman 2-28-74 to get list to County Clerk (see paper A-71-CA-142)
1-11-74	15- Legislative Redistricting Plan and Supporting Brief of Pltf-Intervenors Gaskin, et al. (Legislative District 32) filed. See paper A-71-CA-142

1-11-74	16- Proposed plan Lubbock and Nueces (see A-71-CA-142)
1-11-74	17- Proposed plan Travis (see A-71-CA-142)
1-11-74	18- Proposed Plans Galveston, McLennan, & Jefferson (see A-71-CA-142)
1-28-74	MAJORITY MEMORANDUM OPINION AND ORDER (Judges Goldberg and Justice, filed.*
1-28-74	FINAL JUDGMENT ORDER Pursuant to Opinion, filed.
1-30-74	Notice of Appeal, filed-3 Judges, copies & Supreme Court Clerk.
2-5-74	CLOSED JS-6 CARD

*Dissenting Opinion (Judge John H. Wood) filed in A-71-CA-142)

ESCALANTE, ET AL.

V. A-73-CA-115

WHITE, ET AL.

(Full title omitted in printing)

6-18-73	1- Original Complaint filed.
6-18-73	2- Motion to Consolidate (With A-71-CA-142, A-71-CA-143 & A-71-CA-144 & A-71-CA-145 under Rule 42(a), filed.
6-18-73	Summons, 285, Complaint & Motion to U.S. Marshal for service (& Auth. in Supp of Motion)
6-18-73	3- Authorities in Support of Motion to Consolidate, filed.

6-21-73	4- Summons ret/ex-Auth. Agt. for Gov. Briscoe served-6-19-73-Fisher DUSM $3.00
6-21-73	5. Summons ret/ex-Auth. Agt. for Sec'y St of Tex served 6-19-73 $3.00-Fisher DUSM
6-27-73	6- Letter from Judge Roberts to Judge Brown (Chief Judge, 5th Circuit) re determining if this case is 3-judge and whether or not it should be consolidated with Graves v. Barnes (A-71-CA-142, 143, 144, 145)
7-5-73	7- Exhibits to Original Complaint (inadvertently omitted) filed. Copies to Gov. and Secretary of State.
7-9-73	8- Motion for Extension of Time to File an Answer, filed.
7-12-73	9- Order granting defts Motion for extension of Time filed. Copies mailed to attys of record
7-17-73	10- Order granting three Judge Honorable Irving L. Goldberg, U.S. Court of Appeals, 5th Circuit and Honorable William Wayne Justice and Honorable Jack Roberts, filed. Copies mailed to all Judges and attys for both sides
7-23-73	11- Deft's Original Answer Mark White & Dolph Briscoe to Complaint filed
8-7-73	12- Motion to Intervene filed by Charles

Wright, Eddie Humphrey, David O. Green, Sr., Alfredo B. Jaimie, R. G. Halliburton, Raymond Scott, Oscar Sanchez, Louie Rosales, Edmundo Castillo, & Johnnie Henderson (Dave Richards, attorney)

9-5-73 13- Motion to Intervene filed by Franklin R. Sears, Rev. C.A. Holliday, Alan McNeill, Walter S. Smith, Jr., Harrell Z. Browning, Vincent Kemendo, Williams C. Davidson, Jr., Joe Summers, Jr., and C. B. Garcia, filed. Copy to judges.

9-21-73 14- Order entered by Chief Judge John R. Brown, Fifth Circuit Court of Appeals consolidating A-73-CA-155 with this case. Copy to attorneys. (For hearing only)

9-28-73 15- Order entered by Chief Judge John R. Brown, Fifth Circuit Court of Appeals, consolidating A-73-CA-115, 146 and 155 and A-71-CA-142-143, 144 and 145-copy to attorneys in all cases. (Docketing will be in this (A-73-CA-115 case) as well as filing of instruments) (For hearing only)

10-4-73 16- Order entered by Managing Judge Wayne Justice setting consolidated trial date of Dec. 3, 1973 at 9:00 a.m. at Austin. Order also grants all petitions for intervention pending before the panel.

10-19-73 17- Motion to Intervene filed by Collis E. Cannon & Cleveland Nisby (in all 7 cases) Dave Richards, Attorney-filed in No. A-71-CA-142 (#108).

11-5-73	18- Notice of Deposition of R. C. Johnson by Pltffs, filed. Copy to Judges.
11-5-73	18a- Notice of Deposition of Betty Fischer by Pltffs, filed.
11-6-73	19- Interrogs to Defts filed by Pltff-Intervenors Charles Wright et al (filed in A-71-CA-142)
11-13-73	20- Order setting Nov. 26 for briefs to be filed. Copy to attorneys & Judges. Filed in A-71-CA-142
11-14-73	20a- Notice of Deposition of Felix McDonald, filed by Attys for Defts Mark White, et al
11-15-73	21- Interrogs to Defts. filed by Pltff Dr. Willeford & Pltff Intervr. Franklin R. Sears (filed in A-71-CA-142)
11-21-73	21a- Notice of Deposition of Tom Moore filed by Attys for Defts. Mark White et al
11-27-73	22- Oral Deposition of R. C. Johnson, filed (With exhibits)
11-27-73	23- Oral Deposition of Betty J. Fischer, filed (with exhibits)
11-27-73	24- Oral Deposition of Joyce Wendell Sifford, filed (with exhibits)
11-23-73	25- Motion for Leave to File an Amendment to Complaint (to litigate for lawful claim for attorney's fees) with proposed Order and proposed Amended Complaint att'd. Copy to Judges.
11-23-73	26- Trial Brief of Plaintiffs-Intervenors (Tarrant County, Dist. 32) filed. Copy to Managing Judge Wayne Justice.

12-1-73	NOTE: ALL SUBSEQUENT DOCKETING IN A-71-CA-142-(Trial held Dec. 3 thru Dec. 5) (second hearing held Jan. 28 1974)
1-28-74	27- MEMORANDUM OPINION AND ORDER (Majority, Judges Goldberg and Justice) filed*
1-28-74	28- FINAL JUDGMENT ORDER FILED
1-30-74	Notice of Appeal, filed. Copy to 3 Judges & Supreme Court Clerk.
2-5-74	CLOSED JS-6 CARD Made.
	*(Minority opinion (Judge John H. Wood, dissenting) filed in A-71-CA-142)
6-7-74	29- Order Supreme Court U.S. has PROBABLE JURISDICTION filed A-71-CA-143, A-73-CA-146 & A-73-CA-115

IN THE UNITED STATES DISTRICT COURT

FOR THE WESTERN DISTRICT OF TEXAS

AUSTIN DIVISION

RECORD OF PROCEEDINGS

CURTIS GRAVES, ET AL VS. BEN BARNES, ET AL	)	CIVIL ACTION NO. A-71-CA-142
DIANA REGESTER, ET AL. VS. BOB BULLOCK, ET AL.	)	CIVIL ACTION NO. A-71-CA-143
JOHNNY MARRIOTT, ET AL., VS. PRESTON SMITH	)	CIVIL ACTION NO. A-71-CA-144
VAN HENRY ARCHER VS. PRESTON SMITH, ET AL	)	CIVIL ACTION NO. A-71-CA-145
FRANK A. ESCALANTE, ET AL. VS. MARK WHITE, ET AL	)	CIVIL ACTION NO. A-73-CA-155

JAMES GASKIN, ET AL,	)	
	)	CIVIL ACTION NO.
VS.	)	
	)	A-73-CA-146
MARK WHITE, ET AL	)	
WANDA L. CHAPMAN, ET AL.	)	
	)	CIVIL ACTION NO.
VS.	)	
	)	A-73-CA-155
MARK W. WHITE, JR., ET AL	)	

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Pages 1 through 283

HEARD AT: AUSTIN, TEXAS

ON: DECEMBER 3-5, 1973

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ATTORNEYS FOR THE DEFENDANTS

BE IT REMEMBERED that heretofore on the 3rd day of December, 1973, before a panel composed of the HONORABLE IRVING L. GOLDBERG, Judge, U.S. Court of Appeals, Fifth Circuit, HONORABLE WILLIAM WAYNE JUSTICE, United States District Judge, Eastern District of Texas, and HONORABLE JOHN H. WOOD, JR., United States District Judge, Western District of Texas, the above consolidated Civil Actions came on to be heard, at which time the following proceedings were had:

AUSTIN, TEXAS

DECEMBER 3, 1973

FIRST DAY OF TRIAL

JUDGE GOLDBERG: I think it would be really carrying coals to Newcastle or cases, wherever they're carried, to give the numbers and the styles of the cases. I think everybody knows we're here in consolidated hearing on seven cases, involving legislative redistricting.

In accordance with my custom when I sit on three-judge courts, I turn over the housekeeping and managing details to the managing judge, in this case Judge Justice, and I'm going to let him set the ground rules that we have discussed and

which have evolved in discussion with Counsel and correspondence with Counsel.

Judge Justice, I'll let you manage it.

JUDGE JUSTICE: Thank you, sir.

I think it is in order, first of all, that we see who is here and who represents each of the parties.

Would the Plaintiffs in the case please identify themselves and identify for the record who it is they represent?

Mr. Richards?

MR. RICHARDS: David R. Richards of the law firm Clinton & Richards of Austin, Texas, and appearing here on behalf of the Intervenors, Charles Wright, et al, who have filed and been received as Intervenors in the original action, the Regester action, as well as the Escalante action.

My Plaintiffs challenge the at-large districts in each of the state's nine multi-member districts. Mr. Oscar Mauzy of Dallas is appearing with me in that regard.

MR. GEORGE: My name is R. James George, of the firm of Graves, Dougherty, Hearon, Moody & Garwood. I represent the Republican Plaintiffs and

Intervenors in this cause, originally Dr. George Willeford and Intervenors Frank Sears, et al.

MR. KORBEL: My name is George Korbel. I am with the Mexican-American Legal Defense and Educational Fund. We represent the original Plaintiffs Gonzales, et al, and the Intervenors Moreno, et al. We're appearing in all these cases except for Jefferson County today.

MR. CRAWFORD: J. Phillip Crawford, and I represent the Plaintiffs in an original action, independent proceeding Chapman versus White, which has been more recently consolidated. Our interest in this proceeding is limited to Travis County.

MR. BONNER: I'm Norman Bonner, Jr., of Fort Worth, of the firm of Mitchell & Bonner. I represent Plaintiffs-Intervenors Gaskin, et al. Our interest is restricted to Tarrant County. This is my associate, Charles Williams, of the N.A.A.C.P. Defense Fund, New York; George Martinez, Dallas, Texas.

MR. GLADDEN: My name is Don Gladden. I am here on behalf of Plaintiffs Frank A. Escalante and others in Cause No. 73-CA-115. They are also Intervenors in the original suit heard in this Court. I am associated with Mr. Marvin Collins of

my office who will be here also in connection with that case. Our primary concern is the Tarrant County multi-member district.

JUDGE JUSTICE: These other gentlemen that are there with you?

MR. LEWIS: Gibson Lewis. I'm a witness for the State.

JUDGE JUSTICE: Does that take care of all the Plaintiffs and Intervenors?

All right, the Defendants?

MR. YORK: Larry York, Your Honor, Elizabeth Levatino, Tom Black and I represent the Defendant Governor Briscoe, and the Secretary of State, Mark White, who is here in the courtroom with us.

I would--I don't know if this is the time to raise it or not, but Mr. Korbel's statememt that they had attacked the districts in all but, I believe Jefferson County--I'm not clear on the pleadings. It would appear from our reading of the pleadings subject to correction that the MALDEF group have not filed pleadings attacking the districting situation in Hidalgo County or in Nueces County. If I have misread that, then we stand corrected.

MR. KORBEL: Well, the original Plaintiffs,

Bernal, et al, did have Plaintiffs in Hidalgo County and Nueces County, and rather than unnecessarily burden the Court with additional pleadings, we were just going under those same pleadings.

JUDGE JUSTICE: Well, in order that there may be no question about who it is you represent in what actions, with the concurrence of the Court, you will be permitted to amend and make them parties in all actions.

MR. KORBEL: Thank you.

MR. YORK: Thank you, Your Honor.

JUDGE JUSTICE: There is one housekeeping detail that needs to be taken care of. The motion to file an amicus curiae brief in behalf of the Texas Women's Political Caucus will be granted.

In pretrial discussions with the various attorneys representing some of the parties, it has been brought to the attention of the Court that the parties are in agreement, and if I have been misinformed about this, of course, I will expect that you will correct me, but I have been informed that the parties are in agreement that all evidence relating to the Tarrant County case will be presented first, both from the standpoint of the Plaintiffs and Intervenors and the Defendants.

Following the resolution of the evidence in the Tarrant County case, we then move to all the remaining counties. As I understand it, the Plaintiffs and Intervenors propose to present all evidence relating to all of the remaining counties consecutively, whereas, it is the desire of the State of Texas that each county be taken separately, that evidence relating to that particular county be presented by the Plaintiffs and then there be an opportunity by the State to present evidence relating to that county and then moving on to another.

Have I correctly stated the proposition or the agreement?

MR. YORK: Yes, sir.

JUDGE JUSTICE: Or rather what the arguments are, I should say. Am I correct in that?

MR. YORK: Yes, sir, I believe that's correct.

MR. RICHARDS: May I say it would be impossible for us to proceed that way.

JUDGE JUSTICE: The Court has engaged in a discussion relating to this matter and have expressed a preference to go forward with the evidence relating to all counties at one time.

This is in view of the fact that a large portion of the evidence, in any event, is going to be by deposition, and we don't feel that we will be unnecessarily confused, because we can organize this material after the conclusion of the case.

It has been brought to the attention of the Court that as of 15 minutes till 9:00 this morning, the Plaintiffs and Intervenors had not made a deposit required by the Court. Has that been done?

MR. KORBEL: Your Honor, I can speak for my office. All of our bookkeeping goes on in San Francisco, and I talked to them on Thursday and again on Saturday, and it will be wired to the Court today and should be received by the Clerk today.

MR. GEORGE: I represent the Republicans, and our deposit for one-third of Plaintiffs' share was made seconds ago.

JUDGE JUSTICE: That accounts for two-thirds. What about the remaining Plaintiffs?

MR. RICHARDS: The remaining third will be negotiated during the day, I hope.

JUDGE JUSTICE: Well now, is this an assurance or a hope?

MR. RICHARDS: Oh, it will be covered, Your

Honor, before the case is over, before we conclude the proceedings here, certainly, Your Honor.

JUDGE JUSTICE: All right, Counsel.

MR. KORBEL: May I speak? On Saturday I talked to Nathan Eason, who represented the original Plaintiff, Van Henry Archer, in the San Antonio Republican case, and he told me that if all the money details were taken care of by the active parties in this case that he wouldn't approach his clients for additional money, but that should we run short, he would approach his clients, and he wanted the Court to be assured of this.

JUDGE JUSTICE: I think the Court has already ruled against his clients in the case, in any event, so I don't see that he has any remaining interest in it. I can understand his reluctance to advance any more money.

Now, some of the Plaintiffs and some of the Intervenors have given their exhibit lists to the Clerk. Some have failed to do so.

Will the Clerk please announce who is in error or who has fallen down?

CLERK OF THE COURT: I have not received any.

JUDGE JUSTICE: You have not received any?

The order of the Court was that the parties were to furnish each other with witness lists together with a summary of the qualifications of each of the expert witnesses. Has that been done?

MR. RICHARDS: It has, Your Honor, and we have tendered to the State an inspection of all of our exhibits, but Mr. Korbel and I and Mr. George and Mr. Crawford, and my exhibit list is currently being typed and will be available before we start putting on any evidence today.

JUDGE JUSTICE: Are your exhibits marked?

MR. RICHARDS: Mine are marked.

It's simply a matter of typing up the list.

JUDGE JUSTICE: Well now, we're not going to take time in this trial to wait for someone to mark an exhibit.

MR. RICHARDS: Oh, mine are marked.

JUDGE JUSTICE: We will expect that all of them will be marked and that you will furnish forthwith everyone a list of your exhibits to be filed with the Clerk during the first recess, if you haven't already done it.

MR. GLADDEN: Please the Court, we do have our exhibits. All exhibits have been exchanged with the State, copies of all of our exhibits have

been furnished to the State. We have not prepared -- we have furnished the witness list to the State. We have not prepared a narrative of qualifications of the expert witnesses. Each of their depositions have been taken, and their qualifications were developed in those depositions, and the State is aware of their qualifications. We apologize for not having the summary of the qualifications ready for the Court at this time.

JUDGE GOLDBERG: You understand this Court is going to have to examine exhibits and depositions that are on file at the end of this trial. You all can exchange among yourselves and have a very nice time at this, but we're going to be sure that the Clerk has in her possession the exhibits and the depositions that we're supposed to be reading when we decide this case.

Does everybody understand this?

MR. GLADDEN: We understand, Your Honor.

JUDGE JUSTICE: The Court feels it is well aware of the points in issue in the cases before us, so we're going to limit the opening statements to five minutes. The Tarrant County Plaintiffs may proceed. Please come to the lectern.

Incidentally, the Clerk necessarily is going

to have a great deal of difficulty -- or rather, the court reporter is going to have a great deal of difficulty in identifying who these various speakers are, so if you rise to make some statement or make an objection, please call your name off for her benefit.

TARRANT COUNTY PLAINTIFFS' OPENING STATEMENT

MR. GLADDEN: Please the Court, my name is Don Gladden. I am attorney for Frank Escalante, et al, in the consolidated cases and in Case No. 73-CA-115.

Our petition speaks for itself. We are attacking the constitutionality of the multi-member district in District 32 of the State of Texas, wherein there are nine members elected at large under the place system. It is anticipated that this attack will turn on not only ethnic minority suppression but economic minority suppression, and we will hope to show the Court that the effect of the multi-member district in Tarrant County crosses so as to deny representation or effective representation not only to ethnic minorities but to economic minorities, both at each and

of the economic spectrum in Tarrant County.

Mr. Bonner also is representing some Tarrant County Plaintiffs, and I will yield the rest of the time to Mr. Bonner.

MR. BONNER: Please the Court, I am Norman Bonner, Jr., of Fort Worth. I am also representing a group of Tarrant County residents who are challenging multi-member legislative electoral system as it applies to Tarrant County. Our issues are virtually the same as those of Mr. Gladden. Our focus is on the diluting effect that the system has on minority votes. Our emphasis is primarily on the ethnic aspect of the case, and with that brief statement, I'll yield the podium also.

MR. GEORGE: My name is Jim George. I represent the Republican Plaintiffs in Tarrant County, and we will not present any live testimony in this cause at this time.

JUDGE JUSTICE: Thank you. You may proceed with your evidence then.

MR. GLADDEN: Beg your pardon, Your Honor?

JUDGE JUSTICE: You may proceed with your evidence.

MR. RICHARDS: Could we be excused? I have to prepare witnesses. Could I be excused while the

Tarrant County evidence is being offered?

JUDGE JUSTICE: Yes.

MR. GLADDEN: Please the Court, at this time I would like to call to the attention of the Court that we have filed a motion for leave to file an amendment relative to attorney's fees. We would like to ask the Court to afford us that opportunity.

JUDGE JUSTICE: Very well.

MR. GLADDEN: Thank you, Your Honor.

At this time, Your Honor, we would like to offer into evidence and have talked with the State of Texas relative to the procedure that we are to follow in terms of getting the evidence into the record. We would like to tender a significant number of exhibits with the understanding that if they have not already been proved up by deposition that we will come forward with the proof at the appropriate time, but rather than take the time to hand them to the witness, the State has been kind enough to afford us the privilege of putting them in at the beginning of the trial. At this time we would like to offer the following exhibits which are in and affixed to the depositions.

We would like to offer Plaintiff Escalante's Exhibit 2(a), which deals with Tarrant County census information prepared by the Department of Commerce, 2(b), which is also census information affecting Fort Worth metropolitan area. 3(a) through (i) which are voter applications of the present members of the Legislature. No. 4, which is ballots of the Democratic primary from 1960 through 1972 with the exception of '64 and '68 where there are tally sheets.

No. 5, which is a list of the Republican candidates from 1960 to 1972. In each instance when I make reference to this---.

JUDGE JUSTICE: Well now, have you got all your exhibits listed there?

MR. GLADDEN: Yes, Your Honor.

JUDGE JUSTICE: Why don't you just move their admission, instead of going through each one individually?

MR. GLADDEN: All right. We move the admission of Plaintiff Escalante's deposition exhibits 2(a) through 18(e), Your Honor.

JUDGE JUSTICE: All right. Is there objection?

MR. YORK: May I have just a moment, Your

Honor? I haven't seen this particular list.

JUDGE JUSTICE: Yes sir.

(REPORTER'S NOTE: Counsel for Defendants examine exhibit list.)

MR. YORK: Your Honor, we have no objection to the list of exhibits offered by Counsel, except for Exhibits 16 and 17, which purport to be selected newspaper clippings from the Fort Worth Star Telegram and Fort Worth Press. We would object to those on the basis that they are hearsay and we contend irrelevant to any issues before this Court.

JUDGE JUSTICE: Well, when the exhibits are offered or when reference is made to these particular exhibits, please renew your objection at that time so that we can see how it is in the context of the case.

MR. YORK: All right, sir.

JUDGE JUSTICE: All other exhibits are received in evidence.

(PLAINTIFF ESCALANTE'S EXHIBITS NOS. 2(a) through 18(e) were previously marked for identification)

MR. GLADDEN: In addition to those exhibits Your Honor, we would like to offer as new exhibits---.

JUDGE JUSTICE: What do you mean new exhibits?

MR. GLADDEN: These were exhibits that were offered at the time of the depositions, Your Honor, and I thought it would be easier for the State to make their objections, since they say those at the depositions, so I am offering them in three packages, actually.

JUDGE JUSTICE: All right, go ahead.

MR. GLADDEN: We would like to offer Plaintiff Escalante's Exhibit 0, Plaintiff Escalante's Exhibit 1(a) through (e), which is a map that we previously furnished, Escalante's Exhibit No. 22, some additional slate cards, and Plaintiff's Exhibit No. 21, which are additional newspaper clippings, and 19 and 20, which are leaflets that were generally circulated. We would like to tender those in evidence.

JUDGE JUSTICE: Is there objection?

MR. YORK: Your Honor, I understand that

there is a group of newspaper clippings in this. We will have the same hearsay and relevance objections that we have earlier expressed, which we can urge later.

JUDGE WOOD: Is that to 21?

MR. YORK: I believe that's correct.

MR. GLADDEN: Yes.

JUDGE JUSTICE: Well, as I understand the law, the Court in a non-jury case ordinarily will just overrule all objections, and you'll just have to leave it to us to not consider it if we decide it is not admissible, so your objections as to all this about the newspaper articles will be overruled. If we find them to be irrelevant, they will not be considered.

MR. YORK: I hope the Court won't be offended if to preserve the record we make our objection.

JUDGE JUSTICE: Certainly, your objection will be noted.

MR. GLADDEN: Please the Court, we're not offering them for the facts of the articles themselves, but to show the racial attitude of the community, rather than the facts themselves.

MR. YORK: I would make one objection, Your Honor, to the use of the map which, I believe, is

at least insofar as it purports to set out the plan Mr. Gladden's group proposes to the Court. As we understand it, this part of the procedure is not for the consideration of the plans, but rather considering whether or not the present multi-member situation is unconstitutional. If the plan if offered for the limited purpose to show the Court that it might be feasible to draw up another sort of plan, we would have no objection to it, but as far as the merits of the plan itself, we would object to it.

MR. GLADDEN: May it please the Court, I would like to respond to that. This portion of the map that we're offering at this time does not relate to the plan. We do anticipate seeking to furnish the Court with the plan for two purposes, but we have reserved three exhibits that would go to the question of the plan and will offer them at that time, rather than at this time, at which time we would like to explain to the Court why we feel like the plan is essential at this part of the lawsuit or at the stage we do tender and offer the plan.

JUDGE JUSTICE: The various exhibits mentioned by Counsel are received in evidence.

Do you have another list of exhibits?

MR. GLADDEN: Just a moment, Your Honor. I'll see.

(PAUSE)

JUDGE JUSTICE: Let's move forward, Counsel.

MR. GLADDEN: At this time, Your Honor, we would like to offer in evidence a stipulation by and between the law offices of Don Gladden and the Attorney General's Office, representing Defendants, relative to Plaintiff's Exhibit 1 and zero, establishing the lines that presently exist of District 32.

At this time we would like to call---.

JUDGE JUSTICE: One moment.

Mr. Bonner, do you have any exhibits to offer?

MR. BONNER: No, Your Honor, we have no exhibits to offer.

MR. GLADDEN: We do have an addition to that, Your Honor, additional exhibits, No. 1(a) prime through 3 and 9 prime, which are summary exhibits which will be used by the expert witnesses when they testify relative to the statistical data.

JUDGE WOOD: What is the exhibit number?

MR. GLADDEN: Exhibit No. 1(a) prime. Now

the reason we numbered them this way is because they relate to the other evidence that's gone in. This is a compilation of the census information.

JUDGE WOOD: Compilation and summary?

MR. GLADDEN: Yes. They are prime exhibits as they relate to that. We have attached for the benefit of the Court three copies of the prime exhibits, because it will be dealing with figures, rather than other evidence.

JUDGE JUSTICE: Is there objection to the prime exhibits?

MR. YORK: We have no objection to the prime exhibits, Your Honor.

THE COURT: They will be received in evidence.

MR. BONNER: Please the Court---.

JUDGE JUSTICE: Yes, sir.

MR. BONNER: In response to your question I said we had no exhibits to offer. We do have an exhibit to offer in connection with our plan, but in terms of offering an exhibit to the facts of the lawsuit I'm sure Mr. Gladden has done a sufficiently thorough job that it behooves us to avoid duplication, so we would defer preparing exhibits for trial.

JUDGE JUSTICE: Thank you.

MR. COLLINS: May it please the Court, I am Marvin Collins, attorney for Plaintiff Escalante associated with Mr. Gladden, and at this time to expedite the trial, we would like to present to the Court a motion to take judicial notice of the testimony given at the former trial of the case of Graves versus Barnes, and our purpose in doing so, we realize it has already been consolidated. Our purpose in doing so is simply to protect the possible appellate record in the case in order that if there is any technical objection to whether that evidence in that case is still alive, that if this Court receives an omnibus offer of the evidence presented in that case, then the record, I think, will be protected in the new cases. I have furnished the State with a copy of this motion.

JUDGE WOOD: In other words, Mr. Collins, what you want to do is have us to be in a position to consider all the evidence and testimony adduced at the first trial?

MR. COLLINS: Yes, sir, Your Honor.

JUDGE WOOD: Where it is applicable to this case?

MR. COLLINS: That's correct, Your Honor.

and in addition to that, not just by way of the fact that it is consolidated with that case, but actually we are tendering and offering, if we can, that evidence at this time, or in the alternative we're asking that this Court take judicial notice of it since it is the same three-judge court, and the parties basically are lined up the same way. The same Plaintiffs are not here to some extent, but all of the relevant considerations for admission or testimony given in the former trial, I think, are present, except for the fact that the witnesses then and the evidence then are available now. However, this Court did enter an order with respect to the depositions in that regard so that that is not an objection to our deposition testimony. I feel like it is appropriate here, too.

JUDGE WOOD: Isn't that such a shotgun approach to this thing, and isn't it going to make this record so monumentally large that it is going to be difficult to send it up the Supreme Court if you make every part of the original transcript a part of this record? Isn't that too much? Shouldn't it be limited to only that which is applicable to this case?

MR. COLLINS: Perhaps for purposes of

convenience, there is a justification, Your Honor, for admitting it, and that is, I feel like it will permit the Court to consider all of that evidence and will permit an appellate court to consider all of that evidence in support of whatever this Court decides, and I feel like since the record was made, it is something which would expedite the Clerk's transcript on appeal.

MR. KORBEL: May I speak, Your Honor, for Dave Richards---?

JUDGE GOLDBERG: We can't hear you.

JUDGE JUSTICE: Let me say something.

Everyone on this side of the room raise your voice to about twice your normal volume.

MR. KORBEL: If I might speak for David Richards, one of his exhibits -- one of our exhibits is going to be an appendix, which was offered the Supreme Court in this case, which includes the testimony and substantial parts of the depositions, and I believe that this is the appendix that will facilitate the Court's use of this previous record.

JUDGE GOLDBERG: Is that all of the testimony in the---?

MR. KORBEL: Yes, sir, it's the entire testimony.

JUDGE GOLDBERG: In the original case?

MR.KORBEL: And substantially all the depositions.

JUDGE GOLDBERG: What do you want?

MR. KORBEL: Your Honor, I was not aware of that, and if I may file my motion, I think that will take care of it.

JUDGE GOLDBERG: Thank you.

JUDGE JUSTICE: All right, let's proceed with some evidence here.

MR. GLADDEN: We would like to call Mr. R. C. Johnson.

JUDGE JUSTICE: Come forward, Mr. Johnson.

MR. YORK: We would like to raise a matter partly just for the guidance of the Court and partly by way of objection. Mr. Johnson's deposition was taken in Fort Worth along with the depositions of two or three others who, I understand, Mr. Gladden intends to call. These depositions were taken fully by our side, and it seemed to us a full direct examination by Mr. Gladden. Ordinarily, one would not object to a witness testifying from the witness stand whose deposition has been taken,

but in view of the limited time we all have in this case and in view of the fact that we may well have similar problems with our own witnesses, we would like, I think, to make an objection to the duplication which I understand will come, because I know they intend to offer the depositions. We intend to object to it as repetitious and then to ask the Court's guidance about what all of us should be doing in that regard.

(REPORTER'S NOTE: The Court confer out of the presence and hearing of the court reporter.)

JUDGE GOLDBERG: Let me see if I can make a suggestion here. First of all, you know we are under a deadline. We're going to try in this case, as we did last time, to come out with whatever we come out with way in advance of the filing for the position. That's the first thing I want to say. And we've got to have cooperation. Up to now we've gotten it a hundred percent, Judge Justice assures me, and from what I have seen that is certainly true. It seems to me that all of the depositions ought to be offered, and you use your live witnesses

just as supplementary material or to attack it, but let's don't have a repetition of everything that is in the depositions, and I think that is your position, is it not, Mr. York?

MR. YORK: Yes, sir, that's correct.

JUDGE GOLDBERG: Is there any objection to that?

MR. GLADDEN: No. Your Honor. What we anticipate doing in this connection -- we certainly will offer the depositions. We do want to identify the witness at least sufficiently so the Court is acquainted with who it is, and that, of course, will be repetition, because he was identified in the deposition, but insofar as the material evidence as to the course of this lawsuit, mose likely anything offered will be new evidence.

JUDGE GOLDBERG: We could survive a minimum of repetition, but a minimum is a minimum.

MR. GLADDEN: I appreciate that, Your Honor.

JUDGE GOLDBERG: Proceed.

JUDGE JUSTICE: All right, raise your hand and be sworn.

R. C. JOHNSON

a witness called by the Tarrant County Plaintiffs, having been first duly cautioned and sworn to testify the truth, the whole truth and nothing but the truth, testified as follows:

DIRECT EXAMINATION

BY MR. GLADDEN:

Q. State your name for the Court, please.

A. R. C. JOHNSON.

Q. Mr. Johnson, I'll ask you if you are the same person who has testified in this case earlier by deposition.

A. Yes, I am.

Q. And you reside in Tarrant County. Is that correct?

A. Yes, I do.

Q. And Fort Worth?

A. Yes.

Q. And you have previously in your deposition identified yourself as President of the Tarrant County

Precinct Workers Council. Is that correct?

A. Yes.

Q. And that is a black organization of primarily precinct charimen who are black and who hold office in the Democratic primary?

A. Yes.

Q. At the time of your deposition you were asked by the State -- first of all, at the time of your deposition you identified certain slate cards as being cards which were distributed and circulated by your organization primarily in the black comminity so as to acquaint the community as to who your organization was supporting. Is that correct?

A. Yes.

Q. At that time the State asked you if you could locate and find additional slate cards that showed your endorsement and support of legislative candidates. Is that correct?

A. Yes.

Q. Have you located some of those?

A. Yes.

Q. Had you located them at the time you signed your deposition?

A. No, I had not.

MR. GLADDEN: May I approach the witness?

JUDGE JUSTICE: Yes

Q. Mr. Johnson, I have handed you Plaintiff Escalante's Exhibit 22, and I would like to ask you if those are the additional slate cards that you have located.

A. Yes, they are.

Q. And those do reflect your organization's endorsement for several years. Is that correct?

A. Yes.

Q. On several elections?

A. Yes.

Q. Would you tell the Court the manner that those items were circulated?

A. Well, these are slate cards which were given out from door to door by the precinct workers within each precinct.

Q. And these slate cards are similar to or were used in the same manner as those slate cards you identified in your deposition. Is that correct?

A. Yes.

Q. In that connection one of your exhibits there shows on the back of it a list of persons who composed the precinct chairmen that were endorsing those candidates, does it not?

A. Yes.

Q. And I'll ask you whether or not each of those

persons are black and are members of the precinct workers council.

A. Yes.

Q. None of the earlier slate cards or door knockers that were distributed identified names in terms of more than one person distributing. Is that correct?

A. Yes.

MR. GLADDEN: I believe that's all, Your Honor. Pass the witness.

JUDGE JUSTICE: Is there cross-examination?

MR. YORK: Your Honor, we have no objection to those exhibits, and I believe we fully covered the cross-examination on deposition and we do not have further cross-examination at this time.

JUDGE GOLDBERG: Thank you very much.

MR. GLADDEN: Please the Court, at this time we do offer all of Mr. R. C. Johnson's deposition.

JUDGE JUSTICE: It will be received in evidence.

MR. GLADDEN: I would like to call Mr. J. W. Sifford.

(WITNESS STANDS ASIDE.)

MR. YORK: Your Honor, I believe that most of the depositions that were taken were taken with the agreement of Counsel that all objections would be made at that time. There are objections within the depositions, which we won't attempt to urge now, but they are as a matter of record in the depositions.

JUDGE GOLDBERG: Then we will consider them as we read the deposition.

J. W. SIFFORD

a witness called by the Tarrant County Plaintiffs, having been first duly cautioned and sworn to testify the truth, the whole truth and nothing but the truth, testified as follows:

DIRECT EXAMINATION

BY MR. GLADDEN:

Q. State your name to the Court please.

A. My full name is Joyce Wendell Sifford.

Q. You are the same person who has previously testified in this case by deposition, are you not,

Mr. Sifford?

A. That is correct.

Q. In that connection you identified yourself in the deposition as being for many years active in Labor Union politics or in politics relative to Labor Unions in Fort Worth. Is that correct?

A. That's correct.

Q. And on most of the last few years you have been president of the Central Labor Council, which is a labor organization or a structure in which most of the labor organizations in Tarrant County participate. Is that correct?

A. That's correct.

Q. And is one of the functions of that organization politics, and particularly legislative politics?

A. Right.

Q. Now, in that connection I'll ask you, Mr. Sifford, if you have had occasion to know as to the expense and the cost of campaigning or running an election for the Legislature in Tarrant County or more recently in District 32?

A. Yes, I have.

Q. I'll ask you whether or not you have had occasion to know whether or not there are moneys spent in connection with political campaigns in Tarrant County and

in District 32 that do not find its way onto the expense report of candidates in the Legislature.

A. Yes, I would say that there is considerable.

Q. Can you give the Court some instances to your knowledge as to this type of expense that have gone into campaigns that were not---?

A. One example would be like our own organization, Tarrant County Labor Council. We put out slate cards. We put out brochures. We put out mailings to our members, which has run as high as 35,000 pieces of mailing. This wouldn't be for an individual candidate but for a slate of candidates. To my knowledge there are many organizations in the county who, similar to Mr. Johnson's organization and our organization, and many so-called special interest groups, do do considerable for candidates which the candidates have no knowledge or very little knowledge, and so there is no way the candidate could report expenditures of this nature, and so this certainly would not be shown in the reported expenditure of candidates.

Q. In that connection, Mr. Sifford, do you have an awareness as to whether or not the slated candidates, those that have been slated by special interests with other prospective candidates, would have a greater expense or would show less reported but a greater expenditure of money on their behalf?

A. I would think that this would be true.

Q. If an independent candidate who was spending money himself, as opposed to the slating process, his would be more calculated to reflect more accurately his expenditures. Is that correct?

A. I believe so.

Q. Also I'll ask you, Mr. Sifford, if you have an opinion as to whether or not there is a cumulative effect of campaigning, that is, an incumbent or person who has run for public office prior to the particular campaign. Do you have an opinion?

A. Yes. Of course, I don't want to get into a long lecture. I think the Court is somewhat familiar and most of the people here with politics, but briefly the job of getting elected to the House of Representatives is mostly a question of name exposure, and to win an election a candidate must have their name before the public, and this is where the greatest expenditure comes in. A candidate who has never ran before has no public exposure before, as opposed to, for instance, Mr. Sherman, one of the Tarrant County delegation, who was a television personality for many years before he became a member of the Legislature, and since this time has served several terms. A person of that nature would have considerably less expenditure, because he has, as you said, cumulative effect over the years of not only political

exposure, but before that professional exposure through the medium of television, and so, certainly, as the years go by and you get greater public exposure, certainly your expenditures for this sort of thing, which is the main expenditures that a candidate has, on a State Representative would tend to lessen.

Q. As between an unknown and an incumbent who has had exposure, the relative cost of the campaign would vary significantly, would it not? In District 32, Tarrant County.

A. Very muchly so.

MR. GLADDEN: May I approach the witness?

JUDGE JUSTICE: Yes.

Q. I hand you what had been identified as Plaintiff Escalante's Exhibit No. 20. That is a copy of a leaflet. Do you recognize that?

A. Yes, I do.

Q. I'll ask you to state whether or not that is a copy of a leaflet that was used in 1970 State Senate campaign in Tarrant County.

A. Yes, District 10.

Q. District 10 is composed of the northern portion of Tarrant County---?

A. Right.

Q. ---and a significant part of District 32

Legislative District?

A. At that time it was a primary part of Tarrant County.

Q. And it also encompasses a substantial pa in fact, the biggest part of District 32 present does it not?

A. That is correct.

Q. I'll ask you whether or not to your know ledge that item was circulated on behalf of the cumbent State Senator?

A. Yes, it was. I know personally, because helped to stuff several hundred of these in an e velope that were sent out, and I received one of them at my house. The area where I live, which Hurst, a middle-class suburb of the county, and similar precincts were where these were sent.

Q. In that connection I'll ask you whether you are familiar with the results -- this was se out in the second primary. Is that correct?

A. Yes.

Q. And the first primary are you aware of t the State Senator ran in the basically white pre cincts?

A. Yes, sir, Senator Don Kennard who was th incumbent, trailed by 4,000 votes to Joe Shannon Jr., who was his major opponent. He led the fi primary. In fact,

Senator Kennard barely did get into the runoff, but in the runoff Senator Kennard was re-elected, and, as I recall from reading the newspaper, the returns in the newspapers, most of these all-white precincts where this piece of literature was sent was reversed from whereas Mr. Shannon had carried them in the first primary, Senator Kennard carried them in the second primary.

Q. This was after the mailer went into the white precincts. Is that correct?

A. Yes.

Q. And that is Plaintiff's Exhibit 20 that you have reference to?

A. That's right.

MR. GLADDEN: All right, we pass the witness.

JUDGE JUSTICE: I would like to see Plaintiff's Exhibit 20.

(REPORTER'S NOTE: Court examine exhibit.)

JUDGE JUSTICE: Is there objection to Plaintiff's Exhibit 20?

MR. YORK: We have no objection to it, Your Honor.

JUDGE JUSTICE: It is received in evidence.

MR. GLADDEN: At this time, please the Court, we would like to offer Joyce Wendell Sifford's deposition into evidence.

JUDGE JUSTICE: It will be received in evidence.

MR. GLADDEN: We'll call Mr. John Dillard.

JUDGE JUSTICE: Wait just one momemt. Is there cross-examination of this witness?

MR. GLADDEN: Oh, I'm sorry, Your Honor.

MR. YORK: We're in favor of having an abbreviated procedure, Your Honor, but---.

MR. GLADDEN: I thought he had made all of his objections during the deposition.

CROSS-EXAMINATION

BY MR. YORK:

Q. Mr. Sifford, with regard to the exhibit which was offered, which apparently took issue with Mr. Shannon's vote on the anti-busing resolution in the Legislature of this state, is it a fact that you helped send that particular flier out to precincts and people within Tarrany County?

A. Yes.

Q. I take it that was not just an individual effort on your part, but one done as a part of your organizational responsibilities in the Union activities?

A. It was a part of the campaign, not of the Union but of the campaign of Senator Kennard.

Q. Well, were your efforts in that regard made just J. W. Sifford personally kind of working at home at night, or was it done as part of your official activities?

A. It was done as part of the official activities. It was a case where we all got together in a place and, as happens many times in getting out political mailings, a number of people came to this place, and we all worked and stuffed the mailers.

Q. If we're to believe the papers and what we see on television, at least, this kind of thing has gone on, at least in the highest levels of national politics?

A. Well, I don't know what you're referring to as this sort of thing. This was a vote that Representative Shannon made, and that was on the record, so it was put out to the people. Representative Shannon did not deny that he made this vote. He did make the vote.

Q. I presume that this picture of two little children praying was not in the record of the Legislature?

A. Well, I wasn't present when the bill was

passed at the Legislature, but I would assume that that is a correct statement.

Q. As far as I understand it, this Exhibit is offered to in some way show the attitudes of people in Tarrant County toward minorities?

A. Do you want me to answer as to what the intent is?

Q. Well, sure, if you have a different idea about it. What is your idea about why it is being offered?

A. I assume it has been offered to show that there is prejudice in Tarrant County and that it tends to be effectively transmitted politically, this prejudice.

Q. Would you think that you could find a county in Texas or a county or parish in these United States where the issues of busing of children is not an issue which would be calculated to appeal to the prejudice of one sort or another in people?

A. I doubt it.

Q. And in your own personal efforts in distributing this particular exhibit, I'm sure you didn't think of yourself as a racist?

A. No.

Q. Just a brief reference to the word "slating" which has been used. Am I correct in understanding that the slating that you're talking about, if I understand it

correctly, there are four or five groups in Tarrant County which are the principal sort of organized groups that deal in politics. There are the Labor Unions and the precinct workers, which is principally black, a Mexican-American organization and several others, comprising a total of about five, including a sort of vaguely defined Seventh Street group or business community. Is that a fair thumbnail description?

A. Substantially, although it varies from year to year. There will be new ones; some will drop out, and new ones will come in.

Q. As I understand it, in Tarrant County there is a fairly wide divergence between those groups. That is, I believe you have told us maybe on one occasion in the last ten or fifteen years they have kind of gotten together and tried to agree on a Democratic slate, but at all other times there has been divergence or difference of opinion among the various groups about who ought to be supported as Democratic candidates.

A. Yes. I think it would be safe to say that a candidate running for the Legislature in Tarrant County goes to one of two groups. It would be the Labor group or the Seventh Street or business group for support.

Q. And that is not uncommon throughout this nation?

A. I wouldn't think so. To my knowledge it is not.

Q. To seek the support of Labor and business?

A. Right.

Q. But there is not any one little group of king makers sitting around anywhere in Tarrant County that is able to say, "This fellow or this lady will be a candidate on the Democratic primary." There's four or five divergent groups that see differently the issues and see differently the candidates, and it's kind of a fight among all of them to see who gets on and who gets the support after they get on?

A. Well, I don't know who makes the decisions in the Seventh Street group, but I know the decision made in the organized Labor group is a Democratic process where all the delegates to the Central Labor Council vote on who will be supported.

Q. And you talk to all candidates who want to come and talk to you, I suppose?

A. Yes, sir, right, always have.

MR. YORK: I believe that's all we have, Your Honor. Thank you.

CROSS-EXAMINATION

BY MR. BONNER:

Q. I have one brief question for you, Mr. Sifford. I believe on your deposition you dealt with the racial---.

JUDGE WOOD: Counsel, I believe you have to give your name, so the court reporter can get it.

MR. BONNER: I'm sorry, Your Honor. Norman Bonner.

Q. In your deposition you dealt with the racial aspects of campaigning for the Legislature in Tarrant County?

A. Yes, sir.

Q. Do you recall that, sir?

A. Yes, sir.

Q. And you have spoken today of the economic aspect. What I want to ask you is, in your opinion all things being equal where black and white candidates are involved, which factor would be more decisive in tipping the scales in favor of one candidate or another candidate, race or economics?

A. I would guess I would say race.

MR. BONNER: Pass the witness.

MR. GLADDEN: Don Gladden, Your Honor, on redirect examination.

REDIRECT EXAMINATION

BY MR. GLADDEN:

Q. Mr. Sifford, in connection with the slating process, the slating process takes place prior to the Democratic primary. Is that correct?

A. That's correct.

Q. And that the slating is for the Democratic primary, rather than agreeing upon a Democratic candidate for the November elections. Is that correct?

A. Primary.

Q. So the slating process takes place prior to the Democratic primary, and that is what you had reference to in your cross-examination. Is that correct?

A. Yes.

Q. I'll ask you whether or not a person--that the selection by the Labor and related selection groups is tantamount to election, whether or not the liberal labor communities placing a person's name on a slate, does that automatically mean that person gets elected?

A. If I understand you right, the answer is no.

Q. Now then, is it important, however, in terms of being able to make a significant race, to have the endorsement of one of the two slate-making groups?

A. I would say that very seldom -- it's not impossible, but it's highly improbable that any candidate could be elected without the support of of the the -- the support of one or the other or both.

Q. In that connection we're talking about the Seventh Street group and then the labor related coalitions of liberal, black and brown community?

A. That's right, I would think that the candidate would have to have the support of one of the two to have much of a chance.

MR. GLADDEN: Pass the witness.

MR. YORK: We have nothing further.

JUDGE JUSTICE: Are there other questions of this witness.

MR. GLADDEN: I would like to call Mr. John Dillard.

At this time, Your Honor, we would like to

offer in evidence J. W. Sifford's deposition, if we have not.

JUDGE JUSTICE: It will be received in evidence.

JOHN DILLARD

a witness called by the Tarrant County Plaintiffs, having been first duly cautioned and sworn to testify the truth, the whole truth and nothing but the truth, testified as follows:

DIRECT EXAMINATION

BY MR. GLADDEN:

Q. State you name to the Court, please.

A. John Dillard.

Q. Where do you reside, Mr. Dillard.

A. 3913 Wilbarger, Fort Worth, Texas.

Q. In that connection, if you will, speak into the microphone so that it will be picked up and all of us can hear.

How old are you, Mr. Dillard.

A. Twenty-three years old.

Q. What is your business, occupation or trade at the moment?

A. I am a student.

Q. And where are you a student?

A. North Texas State University.

Q. And what is your major?

A. Sociology.

Q. I'll ask you how old you are.

JUDGE GOLDBERG: We got his age.

MR. GLADDEN: I apologize, Your Honor.

Q. In that connection, where is Wilbarger Street in connection or in association with the rest of Fort Worth or Tarrant County?

A. It's in the southeast corner of Fort Worth.

Q. I'll ask you, if you will, please, to describe the neighborhood and the makeup of that portion of the community in which you live.

A. Well, it is working class population, and it's about 50 percent white and 50 percent black and a sprinkling of Chicanos.

Q. And I'll ask you what the economic level of income is in that area, if you know.

A. It's about four thousand to ten thousand.

Q. Four thousand to ten thousand dollars per year?

A. Yes.

JUDGE JUSTICE: You're speaking about annual income?

THE WITNESS: Yes.

JUDGE WOOD: Average annual income?

THE WITNESS: Yes.

MR. GLADDEN: Yes, Your Honor, average annual income in a range from four thousand to ten thousand.

JUDGE GOLDBERG: Is this based on your knowlegde or what you got out of the census information?

THE WITNESS: Well, my parents make about $5,000.00 a year, and the houses around where we live look about the same, so that was my estimation.

JUDGE GOLDBERG: Thank you.

BY MR. GLADDEN:

Q. In that connection you do live at home with your parents, do you not?

A. Yes, I do.

Q. What is the general age makeup of the heads of households in the community and area where you live?

A. They are middle-age and older.

Q. And in that connection you say that it is a working class community. Would you tell us whether or not

it is made up primarily of skilled trademen or unskilled workers?

A. Unskilled.

Q. Mr. Dillard, I'll ask you what your earnings were last year.

A. $2,700.00

Q. And you have testified that your parents had a family income, a combined family income of about $5,000.00?

A. Five.

Q. What does your father and mother do in the way of work?

A. My father is a laborer, building labor.

Q. Does he belong to a Union?

A. Yes, he does.

Q. Does he belong to the Laborer's Union, or do you know?

A. I'm not certain what Union.

Q. What does your mother do?

A. She works at a laundry.

Q. Has she just recently been employed at the laundry?

A. Well, this year.

Q. In that connection I'll ask you whether or not you have ever entertained, thought about or considered

seeking public office.

A. I have thought about it. I have dreamed about it.

Q. I'll ask you whether or not you have ever given any serious consideration to seeking public office in Tarrant County.

A. No.

Q. Or in District 32?

A. No.

Q. Why have you not given any serious consideration to making such a race?

A. Well, I heard that it costs a lot of money, and to get that kind of money, one needs to find someone to finance their campaign, and I don't believe I want to commit myself to anyone else's causes.

Q. In that connection I'll ask you whether or not you have been active or have actively participated in anybody else's political campaigns in the past.

A. Yes, sir.

Q. Would you tell the Court what campaigns you have participated in and what nature of activity you engaged in?

A. I worked in the Farenthold campaign and in the McGovern campaign.

Q. What was the nature of the activity?

A. I made yard signs and knocked on people's doors.

Q. Do you feel that in the event or if it was feasible to have a district composed of a portion of District 32 where a door-knocking type campaign might take place, that someone in your economic circumstances might give serious consideration to seeking public office, rather than dream of it?

A. Yes, sir, it does seem possible.

MR. GLADDEN: Pass the witness.

MR. YORK: Your Honor, I didn't want to be taken a moment ago to be agreeing to a procedure whereby Mr. Bonner would follow us.

JUDGE GOLDBERG: Mr. Bonner, do you have any questions?

MR. BONNER: I'm sorry. We have no questions.

JUDGE GOLDBERG: Go ahead.

CROSS-EXAMINATION

BY MR. YORK:

Q. Mr. Dillard, what level are you in school? Are you a junior or a graduate student---?

A. Senior

Q. You're 25?

A. Twenth-three.

Q. Twenty-three? Have you been in school constantly since graduating from high school?

A. No, sir.

Q. What other jobs or trades have you followed?

A. Well, I have taken a semester out and worked at a motel last year.

Q. You worked for one semester in a motel. Is that when you earned the twenty-seven hundred or whatever it was?

A. Yes, sir.

Q. Is your mother and father's combined -- his Union work and her work, whatever it is, combined totaling $5,000.00?

A. We don't discuss finances too much. I'm not certain that's the combined total.

Q. You had expressed $5,000.00 as being the family income. If you're uncertain about it, I think it would be fair for the Court to know that, or on the other hand, if you are certain---.

A. Yes, sir, I am uncertain of it.

Q. All right. It is true that you have never given any serious consideration to running for the

Legislature from Tarrant County?

A. No, sir, I have never given it serious consideration.

Q. Have you talked to Mr. Sifford with the Trade Union people?

A. No, sir.

Q. Or talked to Mr. Johnson with the Precinct Workers?

A. No, sir.

Q. Or talked to anybody about it?

A. I have spoken to other people in the Farenthold and McGovern campaign.

Q. In the McGovern campaign and Mrs. Farenthold's campaign, they both made extensive use of media, television, radio, newspaper and every other kind of media?

A. Yes, sir, I think they did.

Q. There would be nothing in those campaigns that would lead you to believe that a purely shoeleather campaign would be likely to succeed, would it?

A. Well, sir, I did not work in the media portion of that campaign, and the portion of the campaign that I worked in seemed to be having some effect on the voters.

Q. Good or bad.

A. It seemed like it was a good effect, sir.

Q. Good. The truth of the matter, as far as the Legislative Districts in Tarrant County, in terms of the cost of campaigning for Legislative Districts in Tarrant County, you have never worked in one of those campaigns when an individual member ran for a seat in the Texas Legislature? You've never worked in one of those campaigns?

A. I did one day's work in a campaign, but it wasn't significant, no, sir.

Q. I'm sure you're not privy to the inner workings of how it was financed?

A. No, sir.

Q. You would recognize that it would cost something to run a single-member district or multi-member district campaign?

A. Yes, sir.

Q. You have expressed the view, I think, that you are not much willing yourself -- would you view it as sort of selling out to other people's causes or views if you had to solicit money from others?

A. I believe so, sir.

Q. Could you come up with even a thousand or two thousand dollars of your own money to run a race in Tarrant County at this time?

A. At this time?

Q. Yes, sir.

A. No, not at this time.

MR. YORK: I believe that's all we have, Your Honor.

JUDGE JUSTICE: Is there redirect examination?

MR. GLADDEN: Thank you, Your Honor.

REDIRECT EXAMINATION

BY MR. GLADDEN:

Q. Mr. Dillard, in connection with the density of population in Fort Worth and in your neighborhood, it is a typical medium-low income residential area. Is that not correct?

A. Yes, sir.

Q. Houses are close together?

A. Yes, sir.

Q. Do you have an opinion as to whether or not a shoe-leather type campaign could be run in a district wherein 75,000 population in that area, whether or not you could based on your experience in the Farenthold campaign and McGovern campaign, whether or not an effort could be made to conduct that type of a legislative campaign?

A. Yes, sir, I think you could knock on a good

many doors.

Q. Do you have an opinion as to whether or not if you multiplied that nine and got into a population of 650,000 whether or not it would be feasible during the interest period of time to conduct a campaign knocking on doors in a community of 650,000?

A. No, sir.

MR. GLADDEN: I believe that's all, Your Honor.

MR. YORK: We have nothing further, Your Honor.

JUDGE JUSTICE: You may stand down. Please call your next witness.

(WITNESS STANDS ASIDE.)

MR. GLADDEN: We would like to call Mrs. Betty Fischer.

Please the Court, Mr. Collins is going to be our easel, because we were unable to locate one earlier today, and I may have to excuse myself to come back and help him.

JUDGE GOLDBERG: That's all right.

BETTY FISCHER,

a witness called by the Tarrant County Plaintiffs, having been first duly cautioned and sworn to testify the truth, the whole truth and nothing but the truth, testified as follows:

DIRECT EXAMINATION

BY MR. GLADDEN:

Q. State your name to the Court, please.

A. I am Betty Fischer.

Q. Mrs. Fischer, I'll ask you if you have previously testified in this case by way of deposition.

A. I did.

Q. And in that connection a series of maps were offered in the deposition, which relate basically the same information that appears on this map. Is that correct?

A. That's correct.

Q. With some exceptions and some variances in method. Is that correct?

A. That's correct.

Q. The map at the present time as it is

exhibited is identified as Plaintiff Excalante's Exhibit No. 1(a). Is that correct?

A. That's correct.

Q. And the black portion of that map represents that part of Tarrant County that is situated in Legislative District 42. Is that correct?

A. Yes, it does.

Q. With one slight exception. Is that correct?

A. That's right.

Q. The exception to that is that the gray area in the upper left-hand quarter in Census Tract No. 141 was altered by an act during the 1972 special legislative session. Is that not correct?

A. That's correct.

Q. And a portion of that census tract was moved into Tarrant County?

A. That's right.

Q. That was in order to assist Representative Gib Lewis to reside in District 32, rather than 42. Is that correct?

A. As I understand it, that's correct.

Q. Other than that one alteration, the white area does represent District 32?

A. Yes.

Q. I'll ask you if you have attempted to locate

geographically the residences of the present members of the Tarrant County Legislature or District 32 Legislature at the time that they were elected.

A. Yes, I did.

Q. And how is that identified on the map?

A. They are the green dots on the map.

Q. And that is based upon the exhibits previously offered in evidence showing their voter registrations for 1972?

A. Yes, it is.

Q. In that connection Mr. Lewis actually at that point in time did show his residence over on the right-hand side of the map---.

A. In Census Tract 6501.

Q. Mrs. Fischer, in connection with the over-all map 1(a), you have done some statistical studies have you not, and some pulling information from the Plaintiff's Exhibits 2(a) and (b), which is the census tract information and prepared summaries of the over-all makeup of District 32?

A. That's correct.

Q. And Plaintiff's Exhibit No. 1(a) prime reflects the over-all information that shows the district as a whole, does it not?

A. Yes, it does.

Q. And we have previously offered and do offer---.

This exhibit was prepared by you and based on the earlier exhibit. Is that correct?

A. That's correct.

MR. GLADDEN: And we would like to -- we have made extra copies for the Court to have relative to the over-all makeup of the district.

Q. Now, in addition to that, have you undertaken to divide the county up into four quandrants to show the economic, ethnic and social makeup of the county by quadrand?

A. Yes, I did.

Q. And that is shown on this map as Plaintiff's Exhibit 1(b), and it reflects four lines that may be difficult for the Court to see, but it reflects four lines dividing the county along census tract lines. Is that correct?

A. Yes, it does.

Q. And I'll ask you if you have done an economic summary showing the ethnic makeup of those quadrants.

A. Yes, I did.

Q. In that connection you have previously testified in the deposition about this without giving statistical information.

MR. GLADDEN: We would also like to at this time offer the Court a breakdown on each of the quadrants or the quarters of the county showing variations of the economic makeup. Now, beginning,

if I may, Mrs. Fischer, with the northwest quadrant, that area which is on the upper left of the map does have a total population of 171,000. Is that correct?

A. That's correct.

Q. The ethnic makeup is basically 82 percent white, 7 percent black and 11 percent brown?

A. That is correct.

Q. And has a mean family income based on the census information of $9,317.00?

A. That is correct.

Q. That is as compared to the over-all district-wide mean income of $11,000.00?

A. Yes.

Q. That quadrant is below the mean income of the district as a whole?

A. Yes, it is.

Q. And the mean family size of that quadrant is 3.88?

A. That's right.

Q. Now, moving on to the northeast quadrant with 178,000, that is 95 percent white. Is that correct?

A. Yes.

Q. Two percent black?

A. Correct.

Q. And three percent brown?

A. Yes.

Q. And the mean family income is $12,605.00?

A. That's right.

Q. How many of the present members of the Legislature reside in the northeast quadrant?

A. At the time they were elected in the spring of '72 four resided in the northeast quadrant.

Q. Four of the nine Representatives elected in that district?

A. Yes.

Q. Going back to the northwest, how many resided in the northwest?

A. Well, our map shows two in the northwest. One actually falls far to the east of that quadrant, but my quadrant line had to be moved over because of the lack of population density in the western part of the county.

Q. That one that lies right along the line and geographically more in the east but according to population in the west, does that community of interest in the area where he lives fall generally to the west of the county or to the east?

A. More to the east of the county.

Q. So that actually would be five in that community of interest. Is that correct?

A. Yes.

Q. Now, moving on to the southeast quadrant, I'll ask you if you have done the summary to reflect population there.

A. Yes, I have.

Q. Now then, the 153,811 is what you show in the southeast quadrant. Is that correct?

A. Yes.

Q. That is because you comtemplated the Supreme Court's striking District 42, as well, and your basic figures were based upon trying to redraft and alter District 42. Is that correct?

A. Yes, that is correct.

Q. Now then, in that connection the over-all ethnic makeup of the southeast quadrant is 61 percent white, 36 percent black and 3 percent brown. Is that correct?

A. That's correct.

Q. Now, in addition to the southeast quadrant I'll ask you whether or not the City of Arlington is included or part of the City of Arlington in the southeast quadrant there as you have shown it.

A. Yes, it is.

Q. There is a difference, is there not, between the economic interest and the ethnic makeup of the south portion of the City of Arlington and the southeast portion of

the City of Fort Worth?

A. Oh, definitely. Arlington is a white upper middle-class white neighborhood.

Q. Have you done a compilation of the southeast quadrant, or that portion, at least, of the southeast quadrant without the City of Arlington in it?

A. Yes, I did.

Q. In that connection it is composed primarily of southeast Fort Worth. Is that correct?

A. That's right.

Q. And using that, there's a total of 109,000 people in that quadrant. Is that correct?

A. That's correct.

Q. 51,378 or 47 percent are white?

A. That's right.

Q. And 49 percent are black?

A. Yes.

Q. And four percent are brown. Is that correct?

A. Yes.

Q. And the mean family income is $8,815.00. Is that correct?

A. Yes.

Q. Now, this is the area that John Dillard lives in. Is that not correct.

A. Yes, John lives in that area.

Q. I'll ask you whether or not any State Representatives were elected from that area in 1972.

A. No, there were not.

Q. I'll ask you whether or not you can recall, since you have been in politics, and your deposition will reflect how long, whether or not there has ever been a State Representative elected from the southeast portion of Fort Worth.

A. Only one several years ago, and he lived on the very fringe, the northern edge of his portion of the county.

Q. And the mean family size is larger there than in any other district. It's 4.04. Is that correct?

A. That's correct.

Q. Now, moving on to the southwest quadrant. You have done a tabulation of that, 172,420 people in that quadrant?

A. That's right.

Q. A total white of 87 percent, 6 percent black and 7 percent brown?

A. Yes.

Q. And the mean family income is $13,374.00?

A. That's right.

Q. And the mean family size is 3.74?

A. Yes, it is.

Q. Is that the smallest family size of the various quadrants?

A. Yes, it is.

Q. And the highest mean income?

A. That's correct.

Q. How many State Representatives resided in that quadrant at the time of their election?

A. Three.

Q. So there are three in the southwest quadrant, four in the northeast and two in the northwest?

A. That's correct.

Q. And zero in the southeast?

A. That's correct.

Q. Have you also prepared -- no, excuse me. Plaintiff's Exhibit 1(c) prime, which was a summary of information by census tracts wherein you took two high-income census tracts and two low-income census tracts and made compilations on the basis of those?

A. Yes, I did.

Q. In that connection would you tell the Court, and I don't have a copy of that before me--would you tell the Court what your high-income figures show as compared to the two low-income figures?

A. Two high-income tracts, one is 54.02, which falls in the southwest quadrant of the county, has a mean

family income of $26,825.00. In this there are 968 families that have an income between $25,000.00 and $50,000,00, and 223 families with an income of over $50,000.00. There are only 1,300 families in all of District 32 with an income of over $50,000.00, and 223 of them live in this census tract. Their mean family size is 2.61.

The other high-income census tract is 106.02 with a mean family income of $40,693.00. It is 98 percent white, 31 families with twenty-five to fifty thousand dollar income, 23 families with fifth-three thousand and over income. There are only 96 families living in this census tract. It is also in the southwest quadrant of the county.

Q. In that connection, before you go on to the lower income, I think I am getting ahead, and there is a map later on that demonstrates some of that. Is that not correct?

A. That's correct.

Q. I'll ask you in connection with your work in the census information whether or not you have prepared and caused to be prepared -- incidentally, this map was prepared either by you or under your supervision, was it not?

A. Yes, it was.

Q. And all the information placed on that map is supported by exhibits which you have previously identified and been offered in evidence?

A. That's right.

Q. I'll ask you if you caused to be prepared at my request an overlay which reflects the precincts wherein there is a black population in excess of 30 percent.

A. Yes, I did.

Q. And I'll ask you if Plaintiff's Exhibit No. 1(c), Plaintiff Escalante's Exhibit No. 1(c) reflects those census tracts.

A. That is correct.

Q. Now, in addition to those census tracts, I'll ask you whether or not you have prepared and compiled a statistical summary of information which relates to not only those census tracts, but the other census tracts wherein there is significant black population.

A. Yes, I did.

Q. And that is Plaintiff Escalante's Exhibit No. 1(c) prime?

A. That is correct.

Q. Now, of these census tracts shown in blue, those are the ones that are the black census tracts?

A. Those are census tracts that have more than 30 percent black population.

Q. Are they marginally 30 percent or is the percentage significantly greater?

A. Oh, most of them are more than 75 percent

Q. In that connection how many census tracts are there in this category?

A. There are 25 census tracts that are more than 30 percent.

Q. Now, there are 80,336 blacks in the district. Is that correct.

A. That's correct.

Q. When I make reference to the district and Tarrant County, if you please, I make use of the district smaller than the county, but when we're talking about after 1968, I'll actually be referring to District 32, which is less than the county. Any reference prior to 1970 will be for the county as a whole. You understand that?

A. Yes.

Q. In that connection these tabulations are based on the present district. Is that correct?

A. Yes, District 32

Q. And that's 12 percent black total population?

A. That's right.

Q. These 15 census tracts--15 additional census tracts where there are between 5 and 30 percent population. Is that correct?

A. That's correct.

Q. Are those contiguous with or around these

blue areas, or where are they located?

A. All of them are contiguous with the blue areas except the three that fall into the smaller cities, incorporated areas, and the one census tract that is to the west.

Q. And in that connection the 13 census tracts in blue have in excess of 75 percent total black population. Is that correct.

A. That's correct.

Q. And the mean family income is $6,570.00?

A. That's right.

Q. And the mean family size is 4.04. Is that correct?

A. Yes, that is correct.

Q. Now, in addition to that, I asked you to prepare, and was there prepared an overlay which reflects the brown or Chicano concentration of population in Tarrant County.

A. Yes, I did.

Q. In that connection that overlay is identified as Plaintiff Escalante's Exhibit No. 1(d). Is that correct?

A. That's correct.

Q. And that shows the census information where Chicano population is 30 percent or greater in yellow?

A. Yes, tnat is correct.

Q. With the exception of one green, which is a combination of yellow and blue, and that signifies one census tract where there is 30 percent population in both black and brown census tracts?

A. That's right.

Q. Now, in addition to that, did you prepare a summary of the brown population as it is distributed in District 32?

A. Yes, I did.

Q. And that has been identified previously as Plaintiff Escalante's Exhibit 1(d) prime. Is that correct?

A. That's right.

Q. In that connection there are 40,742 persons of Spanish surname or Spanish ancestry. Is that correct?

A. That's correct.

Q. And of that there are 7 census tracts where there is 30 percent or greater brown density of population?

A. That is right.

Q. That is the yellow ones. Can you tell the Court, if you will, briefly what the remaining census information or distribution of the brown community is?

A. Fifty-five census tracts where there are more than five and less than thirty percent brown, fifty more

census tracts where there is more than two percent and less than five percent brown population, so we have 105 census tracts with more than two percent and less than thirty percent brown population, and they are spread throughout the district.

Q. Mrs. Fischer, in that connection back to your testimony about your summary of economic information in District 32, I'll ask you whether or not you did prepare a summary of economic information and prepare an overlay which reflects certain economic information on the map.

A. Yes, I did.

Q. And that has been previously identified as Plaintiff Escalante's Exhibit No. 1(e). Is that correct?

A. That's correct.

Q. Now, the overlay that is shown on the map shows the census tracts wherein the population exceeds $3,000.00 above the mean family income in a diagonal and where it is less than $3,000.00 below the mean income of $11,000.00 in a dot. Is that correct?

A. That's correct.

Q. In that connection, the mean family income being $11,000.00 this means that the range is in dots showing a mean family income up to $8,000.00?

A. That's right.

Q. The white area shows between eight and

and fourteen thousand dollars.

A. That's right.

Q. And the diagonal area shows from $14,000.00 up in mean family income. Is that correct?

A. That's right.

Q. Now, in addition to that, if you will, please, go ahead and explain to the Court -- you previously talked about the two high-income census tracts that you selected, and you have identified those as in the southwest quadrant, have you not?

A. Yes, I have.

Q. Would you tell the Court about the low-income tracts and where they are situated on the map?

A. Census Tract 11, which is just to the east of the downtown area, it also happens to have a population greater than 30 percent black. It has a mean family income of $4,437.00, a mean family size of 4.62. There are 382 families who live here. It is 86 percent black, 10 percent brown and 4 percent white. There are 29 families who have less than $1,000.00 a year income, 46 families with less than $2,000.00 a year income and 5[illegible] families with less than $3,000.00 a year income.

Census Tract No. 17, which lies immediately to the south of 11, has a mean family income of $3,604.00, a mean family size of 4.56. There are 702 families living

here. It is 95 percent black, one percent brown and four percent white. There are 105 families with less than $1,000.00 income, 126 families with less than $2,000.00 income and 171 families with less than $3,000.00 income.

Q. In that connection then, the range within census tracts, as prepared by the Census Bureau, the range in mean family income in Tarrant County ranges from $3,604.00 at the bottom and to $40,693.00 at the top end and that the mean family size ranges from about 4.56 at the bottom end in the low economic area up to about 2.61 or smaller, depending on which of the two higher income tracts. Is that correct?

A. Yes. One of the high-income tracts we were unable to get that figure, because the tract is so small.

Q. I'll ask you, Mrs. Fischer, if you did cause to be prepared in this connection an exhibit which reflected the ethnic and economic makeup of the census tracts wherein each of the State Representatives were elected in 1972?

A. Yes, I did.

Q. And that is Plaintiff's Exhibit 3(a) -- (I) prime?

A. That's right.

Q. All right, and in that connection, this is based upon where they registered to vote in 1972?

A. Yes.

MR. GLADDEN: In the interest of brevity, if I may make some references to it and lead the witness a little bit, Your Honor---.

Q. In that connection, Mr. Charles Evans, a State Representative, lives in a precinct with a mean family income of $14,000.00. Is that correct?

A. That's correct.

Q. It is 96 percent white and 4 percent brown?

A. That's right.

Q. Bill Hilliard lives in a census tract with $18,288.00 mean family income. It is 99 percent white and one percent brown. Is that correct?

A. Yes.

Q. Bud Sherman lives in a census tract where the mean family income is $12,737.00. It is 95 percent white and 5 percent brown. Is that correct?

A. That's right.

Q. Gibson Lewis lives or is registered in 1972 in that northeast portion of the county in a census tract where the mean family income was $17,368.00. Is that correct?

A. That's correct.

Q. With 94 percent white and 6 percent black?

A. That's correct.

Q. Tom Schieffer lives in a census tract where

the mean family income is $14,465.00, and it is 100 percent white?

A. That's right.

Q. Likewise, Joe Spurlock lives in a census tract of $11,860.00 mean family income, and it's 100 percent white?

A. Yes, sir.

Q. David Finney lives in one that has a mean family income of $10,432.00. It is 98 percent white and 2 percent brown?

A. That's right.

Q. Chris Miller lives in a district or census tract where the mean family income is $20,948.00. Is that correct?

A. That's correct.

Q. It is 96 percent white and 4 percent brown. Is that correct?

A. Yes, sir.

Q. Doyle Willis lives in a census tract where the mean family income is $10,833.00?

A. That's correct.

Q. And it is 94 percent white, 3 percent brown and 3 percent black. Is that correct?

A. That's correct.

Q. Doyle Willis is the only member of the present

makeup of the Legislature who lives in a census tract where there is any significant -- more than one-half of one percent black population. Is that correct?

A. That's correct.

JUDGE GOLDBERG: We'll pause for a 15-minute recess.

MR. GLADDEN: Thank you.

(REPORTER'S NOTE: The Court then, at 10:35 o'clock, A.M., December 3, 1973, recesses until 10:50 o'clock, A.M., the the same day, at which time it reconvened.)

JUDGE GOLDBERG: Would you mind telling us how many live witnesses you expect, Mr. Gladden?

MR. GLADDEN: This is our last witness, Your Honor.

JUDGE GOLDBERG: Thank you very much.

MR. GLADDEN: With one exception, Mr. Collins will testify relative to the time spent in preparation of the case as to attorney's fees.

BY MR. GLADDEN:

Q. Mrs. Fischer, you had just got through

testifying about the economics of the census tract information. I'll ask you whether or not you have done some statistical studies relative to the comparison of black and white voter activity among selected races in Tarrant County?

A. Yes, I have.

Q. You have previously testified on your deposition that there has only been three black candidates for the Democratic nomination for State Representative in recent modern history. Is that not correct?

A. That's correct.

Q. And that during the years, '60 through '72, that was out of about 106 persons that sought the Democratic nomination?

A. Yes.

Q. All right. Now, I'll ask you whether or not you have identified on the map the location of the residence of each of those three black candidates that have run in recent history.

A. Yes, I have, in small black dots.

Q. They're shown in small black dots?

I'll ask you whether or not each of those resides in the black community?

A. Yes, they do.

Q. And each of them resides in the economic overlay that shows mean family income of less than $8,000.00?

A. That's correct.

Q. And I'll ask you whether or not you have summarized the effect of or whether there has been voter polarization as to those black candidates against their white opponents?

A. Yes, there was.

Q. Now, in that connection I'll ask you, in doing that, you selected five precincts -- no, excuse me -- you selected precincts which you considered to be all black. Is that correct?

A. That's correct.

Q. And in 1968 was the first time a black had run. Is that correct?

A. That is correct.

Q. And that was a person named Charles Grays. In 1972 there was a James Gaskin and a Bobby Webber, both who are parties to this lawsuit. Is that correct?

A. That's correct.

Q. Did you take those races and make a comparison of the votes that each of those persons got in what you considered to be the total black precincts versus the rest of the county where there's black and white and brown mixture?

A. I did

Q. In selecting precincts, did you base it upon your personal knowledge of the ethnic makeup by voting

precincts?

A. Yes, I did.

Q. And you based it on your testimony as to your qualifications in the deposition, did you not?

A. That's right.

Q. You prepared a summary of this information, which has been identified as Plaintiff Escalante's Exhibit 7(a) prime through 7(c) prime. Is that correct?

A. That's correct.

Q. In that connection, turning to Page 2 of that summary, and in this connection, you're using 17 black precincts in 1968 and 19 in 1972. Is that correct?

A. That's correct.

Q. In the balance of the district for comparison. Would you turn to Page 2, and in the 1968 race where Charles Grays was running, he was the black person in the race. Is that correct?

A. That's right.

Q. In the black precincts he received a total of 89 percent of the vote. Is that correct?

A. That's right.

Q. And his opponent, Mr. Bud Sherman, who is here in the courtroom, received 11 percent of the black vote?

A. That is correct.

Q. And in the predominantly white, but with some black and some brown population, Charles Grays received 8,000 votes or 27 percent. Is that correct?

A. That's correct.

Q. And Mr. Sherman received 47,000 or 73 percent of the white vote. Is that correct?

A. That's correct.

Q. And by white votes, I'm talking in terms of predominance rather than total purity. You understand that, do you not?

A. That's right.

Q. So there was just almost a complete reversal in terms of makeup of the total boxes in that race?

A. That's right.

Q. Now, then -- and that was a county-wide race, was it not?

A. Yes, it was.

Q. Now, turning to the 1972 Democratic primary where both Mr. Webber and Mr. Gaskin sought the nomination, looking first to the Webber race, Mr. Bobby Webber received in the black precincts, the 19th Precinct, you have identified 77 percent of the votes. Is that correct.

A. That's correct.

Q. And the combined total of the three white opponents was less than 2,000 or 23 percent?

A. That's right.

Q. And looking at the balance of the boxes in District 32, the records reflect 25 percent of the vote by Mr. Webber in the white boxes, predominantly white, and 75 percent by his combined three white opponents?

A. That's right.

Q. So there again, there was just a reversal of the trend. It was three-to-one in the black boxes for Webber, three-to-one against him in the white boxes?

A. That's correct.

Q. All right. Looking at the 1972 race in the Gaskin race, it's not quite as demonstrative in that. Is that correct?

A. That's right.

Q. Now, Gaskin received 32 percent of the black vote, while his combined two white opponents received 68 percent?

A. That's right.

Q. In that connection, Doyle Willis was one of his opponents. Is that correct?

A. That's true.

Q. And a man who had held public office since World War II almost continuously in the area?

A. That's right.

Q. And these combined two opponents got 68

percent in the black community, and in the white community Gaskin's percentage dropped from 32 to 20 percent?

A. That's right.

Q. And the combined two white opponents went from 68 to 80?

A. That's right.

Q. And in that connection, however, Mr. Gaskin was not endorsed or supported by the Black Precinct Workers Council?

A. That's correct.

Q. The organization Mr. Johnson has identified himself as chairman of?

A. That's right.

Q. Now then, Mrs. Fischer, I also asked you to do a summary or a comparison of voter turnout in the black precincts, did I not?

A. That is correct.

Q. As compared to the selected white precincts?

A. That is right.

Q. In that connection, you have selected five precincts which are almost 100 percent black and five precincts which are almost 100 percent white. Is that correct?

A. That's correct.

Q. Did you in making that selection of these precincts to tabulate take into consideration the geographic

location, the age factor, as well as the mean income factors?

A. I tried to.

Q. In that connection you prepared a summary which has been identified as Plaintiff Escalante's Exhibit 8, 9 prime. Is that correct?

A. That's correct.

Q. Looking to that on Page 2 -- well, Page 2 reflects both general and primary election in 1968. Is that correct?

A. That's correct.

Q. And Page 3 reflects the same information for 1970, and Page 4 refelcts the same information for 1972?

A. That's correct.

Q. And in connection with that averaging, I believe there is testimony here where there is testimony that the voter turnout is significantly less in the primaries in the black community, as compared to those voter turnouts in the general election. Is that correct?

A. That's correct.

Q. Now, averaging the voter turnout in both the white and black precincts in the primaries for those three years, I'll ask you to state whether or not the percentage is about 33.5 turnout in the black precincts and 43.5 in the white precincts you used. Is that correct?

A. 33.3 and 43.3

Q. O.K., 33.3 and 43.3. Projecting that to using those figures and applying it to a thousand white and a thousand black votes and projecting that turnout as to a voter turnout, have you reached any conclusions as to the ratio of people who actually arrive at the polls as between black and whites?

A. Yes, while this percentage only shows 10 percent, if you had a thousand white voters and a thousand black voters, if 43 percent of the white voters went to the polls, that would be 463. If 33 percent of the black voters went to the polls that would be 333. That means 760 votes actually cast out of a possible 2,000. That would expand the vote that the white cast, if you're talking of block vote, to about 14 percent instead of 10 percent.

Q. In other words, of a thousand white registered voters versus a thousand black registered voters in these precincts, there would be 13 more white people arrive at the polls than black people, if you used this voter turnout information you have developed. Is that correct?

A. There would be 13 more whites for each hundred voters registered.

Q. Right, using 100 -- excuse me -- using 100. Of each 100 people that arrived at the polls 13 more would be white than black?

A. That is correct.

MR. GLADDEN: Excuse me, Your Honor. I seem to be---.

(PAUSE)

MR. GLADDEN: I'll do it---.

Q. In connection with Plaintiff's Exhibits Nos. 16 and 17, those were the newspaper clippings that have been previously identified. I'll ask you if you caused those to be prepared.

A. Yes, I did.

Q. And in that connection you selected these from the archives of both daily newspapers in Fort Worth?

A. That's right.'

Q. And it was your purpose in selecting them to select articles which portray and show whether or not there is racial differences within the District 32 area. Is that correct?

A. Yes, that's correct.

Q. And these articles that you have selected as shown in Exhibits 16 and 17, are demonstrative of what they reflect in terms that they are circulated in Tarrant County in the daily newspapers, were they not?

A. That is correct.

Q. And in that connection both of these newspaper archives are daily newspapers in Fort Worth and are the only daily newspapers with total circulation in the

county?

A. That's right.

MR. GLADDEN: At this time we offer Plaintiff Escalante's Exhibits 16 and 17, not for the purpose of showing the facts, but for the purposes of showing the racial attitudes of the people in the community.

MR. YORK: Your Honors, without intending any disrespect toward those newspapers, we would respectfully urge our objection that it is hearsay and contains conclusions which the writer of the articles is not shown to be able to draw.

JUDGE GOLDBERG: Do you want to be heard from?

MR. GEORGE: To bring the Court's attention to former stipulations by the State when this proceeding was going on in January of 1972. The State stipulated the admissibility of similar newspaper items for all purposes. I don't know what the role of the stipualtions of the State in the first hearing in this proceeding is, but I would suggest that they are bound by the sitpulation.

JUDGE GOLDBERG: Well, we will take the stipulation and the objection under advisement.

when we study the case.

BY MR. GLADDEN:

Q. In addition to Plaintiff's Exhibits Nos. 16 and 17, there is in evidence Exhibit No. 19, which is a clipping which was circulated in Tarrant County, was it not, by one of the Republican candidates for the Legislature?

A. It's a reproduction of a handbill circulated by a Republican candidate.

Q. And that was circulated in the Tarrant County area. Is that correct?

A. Yes, it was.

Q. And it does reflect a position by that Republican candidate on the issues of busing. Is that correct?

A. Yes, it does.

Q. It suggests his Democratic opponent favors busing, and he is opposed to it?

A. That's right.

Q. Now then, Plaintiff Escalante's Exhibit No. 21 is also a series of newspaper clippings. Is that not correct?

A. That's correct.

Q. In that connection this is a series of articles that were prepared and published in the Wednesday --

or in the Fort Worth Star Telegram during the last week or two. Is that correct?

A. Yes, Wednesday, November 21st.

Q. And it pertains to -- you said November 21st?

A. November 21st.

Q. It pertains to the community attitudes on housing and insofar as ethnic living in housing areas, does it not?

A. Yes, it does.

Q. And this was actually taken by you out of the newspapers. Is that correct?

A. That's correct.

Q. And it was circulated in Tarrant County?

A. Yes.

MR. GLADDEN: We tender Plaintiff Escalante's Exhibit No. 21 in evidence.

MR. YORK: Your Honor, we have the same objection that we previously urged.

JUDGE GOLDBERG: Same ruling.

Q. In that connection, Mrs. Fischer, the Plaintiff's Escalante exhibit does relate to some people's attitude on housing in the Tarrant County area, does it not?

A. Oh, yes, it does.

Q. Have you picked out just very briefly one or two instances or examples of what this newspaper quotes

people as saying as to their attitudes on ethnic housing?

A. Yes, I have a couple of examples. One is concerning Arlington where the Planning Department in Arlington is quoted as saying: "Negroes have the most obstacles to overcome," and they were talking about the availability of housing in Arlington. It went on to say, "Arlington has a very small black population. It is a ghetto-type population," and they pointed out there is, you know, evidence of what the city did for the area before the Civil Rights Act. It had a dilapidated school at one end of the street, and when the Civil Rights Act was in process of going through, they ran and built a small swimming pool, not as large as many white families have in their own back yard, at the opposite end of the street.

Then another of the quotes that came up from the Watagua residents who said that he wanted to remain anonymous. He said, "The reason people like Watagua is there is no city tax and no Negroes." The city secretary of Watagua, Mr. Noel Meadows, spoke of the absence of blacks in the city saying, "We don't discourage them, but then you wouldn't say we encouraged Africanos to live in the city either."

This is two I have picked out. There are many others in the newspaper article that reflects about the same thing.

JUDGE JUSTICE: What was that term, Africanos?

THE WITNESS: Africanos.

Q. Incidentally, Mr. Meadows' wife was a delegate to the National Convention for George Wallace, was she not?

A. Yes, she was.

Q. And she's City Manager of the City of Watagua in Tarrant County?

A. That's correct.

Q. And that is one of the areas up in the north portion of the county where there is no showing of any ethnic population. Is that correct?

A. That's correct.

MR. GLADDEN: At this time, Your Honor, we would like to tender Plaintiff Escalante's Exhibits 18(a) through (i), Xerox copies of a series of these slate cards. We would like to tender the originals to the Court so the Court can see the manner instead of the fact that they were all put on one Xerox page, we would like to tender those to the Court. They have been previously, of course, identified and shown to the State.

JUDGE JUSTICE: Is there objection?

MR. YORK: No, Your Honor.

JUDGE JUSTICE: They will be received in evidence.

MR. GLADDEN: At this time, Your Honor, we would like to ask Mrs. Fischer---.

BY MR. GLADDEN:

Q. Mrs. Fischer, in connection with the preparation of this map, I'll ask you whether or not you have done some work in an effort to attempt to suggest to the Court how lines can be drawn in Tarrant County so as to be representative of both the ethnic and economic, as well as the political make-up of the district.

A. Yes, I did.

Q. And is that an overlay identified as Plaintiff's Exhibit No. 1(f)?

A. That's correct.

MR. MARTINEZ: Your Honor?

JUDGE GOLDBERG: Yes.

MR. MARTINEZ: We believe he's going to go into the plan at this time, and we would object to any evidence along that line.

MR. GLADDEN: Please the Court, the reason for going into the exhibit, there are two reasons. Number one is we feel like it is imperative that we demonstrate to the Court that a plan can be

presented to the Court which would satisfy the constitutional inequities that we say exist, that we can demonstrate to the Court that the ethnic and economic makeup of our district is such that it can be constitutionally satisfied by drawing nine lines. That is the first primary thing.

MR. MARTINEZ: Your Honor---.

JUDGE JUSTICE: One moment.

(REPORTER'S NOTE: Court here confer out of the hearing and presence of the court reporter.)

JUDGE GOLDBERG: What is your objection?

MR. MARTINEZ: I believe she can testify to that without presenting the plan.

JUDGE GOLDBERG: I don't understand he is offering this exhibit as a plan that in any event bears the imprimatur of any party. He simply wants to establish, for whatever good it may be, that there is a plan that could satisfy what Mr. Gladden says is a constitutional right of the Plaintiffs and Intervenors in this case. I don't think he needs a chart to show this. I agree with you that he could ask it in question form, but for some reason he

thinks he must get it in graphic form. I think everyone has been told to present plans sealed. Isn't that correct, Judge?

JUDGE JUSTICE: No, those who were not actual parties to the litigation were to submit sealed plans.

JUDGE GOLDBERG: Oh, I see.

I think we'll admit it only for feasibility, and I want you to understand that is the only thing it will be considered for. There is a plan whereby your people could be satisfied -- I mean whether or not it has to be done or the Constitution requires more or less is not going to be solved necessarily by this document.

MR. GLADDEN: This is correct, Your Honor, and we will file with the Court -- it is my understanding that the order directed non-parties to file sealed plans. There was no reference made as to whether or not the parties would be afforded an opportunity to present plans or not. We will file with the Court a plan, but at this point in time we would like to offer this evidence to demonstrate the economic and ethnic makeup for the purpose of showing a plan could have been devised by the Texas Legislature and wherein these consti-

tutional inequities could have been satisfied.

BY MR. GLADDEN:

Q. Now, in that connection, you have prepared a plan, have you not? You have drawn lines?

A. Yes, I have.

Q. And that is Plaintiff Escalante's Exhibit 1(f)?

A. That's correct.

Q. In that connection, I'll ask you whether or not you have identified these by census tracts.

A. Yes, I have

Q. Now then, I'll ask you whether or not in that connection you have developed a summary of the population, the economic and ethnic makeup of each of these subdistricts, I guess you would call them, at the present time, of District 32, showing the economic, ethnic and mean family size and other pertinent information?

A. Yes, I have.

Q. And that is shown in Plaintiff Escalante's Exhibit 1(g) prime. Is that correct.

A. That's correct.

MR. GLADDEN: All right, we offer in evidence 1(g), which is the census tract information or the census definition of the lines shown on the map, as well as 1(g) prime, which is the economic and ethnic summaries of the breakdown.

Q. Looking to 1(g) prime, I'll ask you whether or not you show these districts -- and if you can identify them to the Court as you go through -- and you have got them marked down there as Box 32-1 through 9. Is that correct?

A. That's correct.

Q. On No. 1, and it's difficult to see, but that is the portion in the center of the map. Is that correct?

A. Yes, that's the inner city of Fort Worth.

Q. All right, and would you tell the Court the makeup of that?

A. There's 74,614 in population. It's 28 percent white, 50 percent black, 22 percent brown. The mean family size is 4.6. The mean family income is $6,604.00.

Q. Now, turning to District 2, and rather than run through these, the Court has copies of these.

A. All right.

Q. It's District 32-2. Is that portion to the immediate right and down, the immediate east and south. Is

that correct?

A. That is the southeast portion of a county. There is presently a high population of black. It is an area where the black population is growing and moving into as they move out of the inner city.

Q. In that connection, each of the three black candidates who sought public office live in either one or two. Is that correct?

A. That's correct.

Q. And the median or mean family income is a little bit higher in two than one. Is that correct?

A. Yes.

Q. Even though there is ethnic makeup, blacks in the community, then mean family income is more than the center city income?

A. That's correct.

Q. Both of these districts pertain or deal with the southeast portion of the district where there are not representatives and have been none for many years?

A. That's right.

Q. Now, 32-3, would you very breifly tell the Court where that is and the makeup of it?

A. It's to the north and east of 32-2.

MR. GLADDEN: If it please the Court, may I stand by the map so that I can point it out to the

Court?

A. It tends to be the eastern suburb of Fort Worth and a portion of Arlington and Richland Hills.

Q. In that connection the mean family income is $13,000.00 and there are no appreciable blacks or browns in that district. Is that correct?

A. That's correct.

Q. Further in that connection, the City of Arlington has a population over 100,000 people. Is that correct?

A. That's correct.

Q. In order to draw a district of 75,000, it was necessary to take part of that population out?

A. Yes.

Q. All right. District 32-4 is what?

A. That is part of Arlington that is together. I might add part of the part that we took out of Arlington into 3 have smaller incorporated cities. That's not all Arlington so that 32-4 is Arlington proper.

Q. I see, and that has a 75,117 population, which is just almost on the money in terms of numbers of people. Is that correct?

A. That's correct.

Q. And the mean family income is $11,784.00, and there is a small black population in that district. Is

that correct?

A. Very small, only one percent.

Q. And this is actually in Grand Prairie. Is that not correct, that part of Grand Priarie in Tarrant County?

A. That's correct.

Q. No. 32-5, would you tell the Court a little bit about 32-5?

A. 32-5 is the mid cities area. We call it the white suburban, average age around [illegible], engineers, school teachers, semi-professional people.

Q. That's the Hurst-Euless-Bedford area. Is that correct?

A. That's correct, near the new airport.

Q. And in that connection it is 97 percent white and has a mean family income of $12,330.00?

A. That's correct.

Q. Would you tell the Court about 32-6?

A. 32-6 is the old northeast side of Tarrant County. It has one or two small incorporated cities, Haltom City and Watagua in it. It's mainly an older community of working people.

Q. And it has a mean family income of $9,183.00. Is that correct?

A. That's correct.

Q. Now, 32-7

A. 32-7 has part of North Fort Worth, a little bit close to the center of the business area, several incorporated small cities, a blue-collar district with a mean income of $9,165.00.

Q. And it is 92 percent white. Is that correct?

A. That's correct.

Q. All right. Now, 32-8.

A. 32-8 is known as the Ridglea or west side of Fort Worth. It has mostly very high income population, a very young population.

Q. In that connection the mean family income of that district is $16,785.00. Is that correct?

A. That's correct.

Q. And it has a family size of 3.6?

A. The smallest of any of the districts.

Q. In that connection I believe you told me the number of families in excess of $50,000.00 mean family income, as that district relates to the rest of the county, do you have that?

A. I can't quote the figure, but is is over half of the 1,300 families living in that district that have an income over $50,000.00.

Q. And now, going on to 32-9.

Q. Yes. Now, this again, is just the outlying

areas of Fort Worth on the west and south and the old T.C.U. area. It, again, a fairly high income with $12,831.00 and it is 95 percent white.

Q. Mrs. Fischer, you have testified previously by deposition have you not?

A. Yes, I have.

Q. And in that connection you did apprise the Court of your qualifications and your awareness of all the information you have testified here today?

A. Yes.

Q. Do you have an opinion as to whether or not this suggestion on these lines would satisfy and would demonstrate and would afford people of ethnic minorities and economic minorities in District 32 of a better opportunity to effectively participate in their representative form of Government?

A. Yes, I have an opinion. I think the single-menber districts would definitely help them. I think this plan or these lines at least assure them that they could effectively work and support and elect at least one black representative and have a great influence over the direction in which legislation goes and certainly the way they would vote on legislation after elected.

Q. In addition to that, both from the ethnic standpoint and the economic standpoint, would it also afford

the poor people in District 32 an opportunity to more effectively participate in the governmental process?

A. It certainly should.

Q. And by the same token, the extremely wealthy would be afforded a better opportunity than perhaps they now have in terms of responsibility, at least, to one person?

A. That's right.

MR. GLADDEN: We offer Mrs. Fischer's deposition in evidence, Your Honor, and with that the Plaintiff will pass the witness.

JUDGE JUDTICE: It will be received in evidence.

MR. MARTINEZ: George Martinez of the firm Martinez & Solis, for Gaskin, et al.

CROSS-EXAMINATION

BY MR. MARTINEZ:

Q. Mrs. Fischer, did you do a summary of Tract 3, which is mostly Precinct 50?

A. Yes, I did.

Q. That is the one that is designated as combined black-brown area?

A. Yes, it was.

Q. Can you give me the voter behavior on the black candidates in that area?

A. Now, census tract -- I have census tract breakdown. You want the voter behavior of Precinct 50?

Q. Census Tract 3, basically Precinct 50, either one will do.

A. And voter breakdown?

Q. How did the black candidates do in that area?

A. I do not have Precinct 50, as such. They were combined with all the other black precincts. I know from experience that the black candidates always come out with at least 75 percent margin.

Q. In that area?

A. In that area.

Q. And that is a combined black-brown area?

A. Yes, it is. It is one of the precincts that I used in the compilations I made on the candidates.

Q. Do you have Mexican-American statistics on voter turnout?

A. No, it is not that clear-cut evidence in Tarrant County. There are no precincts that fall--that have high enough concentration of browns in Tarrant County to actually measure the voter turnout.

Q. That's your opinion?

A. That's my opinion.

Q. Do you have any opinion as to the voting turnouts on Mexican-Americans at all based on your own experience?

A. Oh, the voter turnout is approximately the same as that of blacks from my experience. It's not as easy to find polarization in the brown vote as the black votes.

Q. Do you have an opinion as to why the voter turnout is so low?

A. Yes, I have an opinion.

Q. Would you---?

A. Well, I spent a lot of time walking precincts and registering voters, as well as campaigning with voters, mostly in the black-brown, low-income precincts, and in all three, but particularly in the black-brown, the language barrier in the brown precincts. The other is the feeling that their vote isn't going to make much difference, that it really doesn't count that much, and it is an effort they don't feel very rewarded for having made.

Q. Did you indicate you had experience working in the Arlington area, or is that just a quote you got out of the paper?

A. I live in Arlington. I have run for political office in Arlington.

Q. Would you say the browns are treated the same as the blacks in Arlington?

A. No, there's no housing discrimination of browns in Arlington.

Q. When you did your feasibility study for this "non-plan" did you take into account the browns?

A. Yes, I did.

Q. In doing it, did you attempt to maximize the strengths of their voting pockets?

A. Yes, I did, particularly in District 1 where the majority of browns live. In fact, our brown client helped me to maximize the brown voting strength in that district.

Q. In your opinion do you think it would have been possible to cut two districts instead of one to maximize black-brown strenghts?

A. Oh, you can cut them. If you make two districts with 50 or 60 percent black-brown--I think a white person would be the ultimate choice in those districts. Let me give you an example.

In Precinct 1 in Tarrant County, which is just north of the courthouse -- it is heavily black with quite a few browns. It's the census tract that has 96 percent black and brown population. Every two years a white runs, a black runs and a brown man runs, and the voter participation of the black and brown drop off so in the

runoff that the white man always get elected. I think if you draw a single-member district line with very, very close margin in the black and brown, inevitably a white will end up representing them.

Q. Wouldn't you say that's the responsibility of the candidate?

A. Of the candidate? I would say that in Precinct 1 the candidate certainly isn't responsive to the constituents in Precinct 1.

Q. I'm not talking about the office holder. I'm talking about the people that are running.

A. I have seen some very hard races run in Precinct 1 and lost by my brown friends and black friends. It's very hard to get those votes out and particularly in a runoff and particularly where there's been some polarization between the two groups in the primary.

MR. MARTINEZ: Thank you.

Pass the witness.

MR. KORBEL: I have a couple of questions, Your Honor.

CROSS-EXAMINATION

BY MR. KORBEL:

Q. I'm George Korbel, appearing for the original Plaintiffs Bernal, et al, and the Intervenors Moreno, et al.

Now, you have been liberally qualified as an expert on Fort Worth politics from reading your deposition.

In your opinion has there been a history of racial discrimination in Tarrant County which has touched the rights of Mexican-Americans and black minorities to participate in the Democratic process?

A. Yes, I would say there has in a very subtle way.

Q. And does this existence of past discrimination preclude the effective participation of Mexican-Americans and blacks in the elective system?

A. Yes.

Q. Does the use of the multi-member district in conjunction with the majority place system operate to minimize or cancel out the voting strength of racial or political elements of the voting population of Tarrant

County?

MR. YORK: Your Honor, Counsel, of course, is reading from the Supreme Court's language. I don't believe this witness has been shown to be qualified to pass on the ultimate conclusions of law to be made in the case, and we object to it.

MR. KORBEL: That's all I have, Your Honor.

JUDGE GOLDBERG: We will take the objection under advisement, as previously ruled on the other questions.

CROSS-EXAMINATION

BY MR. YORK:

Q. Mrs. Fischer, you have worked long and hard on the preparation of this exhibit and on the various other statistical data which you have gathered, have you not?

A. Yes, I have.

Q. Been busy on it for several months?

A. Yes.

Q. You would expect that anybody who wanted to run, and particularly the members of the present Tarrant County delegation who, if they were told this month, the next month or the month after, that they would have to run in

single-member districts in Tarrant County, they would likewise have to study up on what those single-member districts would consist of in terms of what kinds of voters, what kinds of income, et cetera, et cetera, would they not?

A. I would assume they would.

Q. And that would be a not insubstantial job, considering the time allowed, would it not?

A. I don't believe that they would need the detailed breakdown we had to present to the Court. From my political knowledge, and I assume any candidate or officeholder in Tarrant County has at least as much as I do and many of them more, I could look at those suggested lines and know which district I would run best in without going to a census tract or voting precinct, and I think most of them could. I don't think it would require them a great deal of time to decide where to move to get elected.

Q. Would you seriously contend that the members of the delegation know as much about the situation statistically and so on in Tarrant County as you do at this moment?

A. There's some of them that I am sure do. I feel that there are some that do not, but then I don't want to pass on their qualifications.

Q. O.K. You would agree that there would be substantially more work or at least more work, however you

want to characterize it, for them to run in single-member districts from that standpoint than there would if they were to run in the district as it is now constituted?

A. Oh, no. They could take their election returns from the last two campaigns they have run and simply pick out the area that they run best in and could run a much easier campaign than running county-wide.

Q. You believe they wouldn't have to devote any time to studying the new districts? That it would be minimal or none?

A. Practically none.

Q. Or to study the ethnic makeup and the makeup as far as income is concerned in their new district?

A. I would think it would take a very small amount of study time on their part. Most of them have lived in Tarrant County all their lives, and they should have a pretty good general knowledge of it.

Q. And if the individual members of the Legislature would differ from your view on that point, I suppose you would have to concede that they would know best how much whork they would think they would have to do?

A. I certainly would. As I said, I wouldn't want to pass on the qualifications to make that judgment.

Q. You are aware that the constitutional convention in this state began in January?

A. Yes

Q. In Austin?

A. That's correct.

Q. Requiring hopefully the attendance of all the present members of the Legislature?

A. That's right.

Q. I'm sure you view that as a laudible purpose, a job that needs to be done and needs to be done well?

A. Yes, sir.

Q. Fully attended by the delegations from all of our counties?

A. Yes.

Q. What is the over-all Tarrant County breakdown between browns, blacks and Anglos or white?

A. It is 82 percent, 12 percent black and 6 percent brown. Now, this is District 32.

Q. That's not total Tarrant County?

A. No.

Q. I understand.

A. This is the district our present Representatives run from.

Q. You made a statement in reply to one of Mr. Gladden's questions at the tail end of his examination that you felt that a single-member district situation would allow the wealthy to perhaps gain a more direct form of

representation or a more representative form of representation as well as the poor?

A. Yes, I do.

Q. Would it be true then that you would now believe that those representatives that you might characterize as living in the wealthier districts, generally being white, generally being somewhat wealthy themselves, would your statement about that lead us to the conclusion that you believe they are influenced to some degree now by the presence of minorities in District 32?

A. Oh, I believe, knowing my delegation, that there are probably one or two of our representatives that are influenced by the views of the minorities in Tarrant County. I would not be able to say this is true of the total delegation.

Q. My point is -- do you understand the point being if you made the statement that the wealthy would be better represented in a single-member district situation, that must be due to the conclusion that the wealthy are not getting total representation now because their supposed representatives are being swayed somewhat by what the poor think? Is that right?

A. That could be assumed. I think, if you'll give me a minute -- if I lived in District 8 and were an oil man, which is where most of the oil people in Tarrant

County live, I might rather have an oil man or an oil man's son in Austin than a P.R. firm operator. That might be the choice they would want to make.

Q. Now, when you answered that question that way, I assumed that what you meant was as it now stands those who are white who are representatives, that you believe somehow they are not giving total allegiance to the rich, because they are being somehow swayed by what the poor, the blacks and the browns think?

A. No, I don't think that is an accurate assumption. I think that it's more there aren't any oil men serving in our delegation, and since the richest area in Tarrant County is predominantly oil people, that they might get an oil man to represent them then.

Q. You say only a couple of the members of your, what, nine-man delegation, pay much attention to a minority interest now?

A. There's only a couple that talk about it back home, and we haven't had that much legislation of a crucial nature come out of the Legislature in several years.

Q. Are you aware of how the delegation as a whole voted on House Bill 3 related to the open meetings law that we now have?

A. Yes, but I do not really consider that a bill that particularly -- that the black community or the

brown community or the poor community is any more interested in than the total community of Tarrant County. I think the people in Westover Hills who would have time to go to the City Council meetings are probably more interested in the bill than the black person who works from 7:00 to 7:00 and wouldn't have an opportunity to go to a City Council meeting if it were open.

Q. What about night meetings? Could some of those people make one of those?

A. They could make night meetings. Unfortunately, in Fort Worth there are no night meetings except of the School Board.

Q. And that is subject to the open meetings law?

A. Yes.

Q. Do you know how the delegation voted as far as House Bill 6 on open record, making a great number of government records open to the public, which they had not previously?

A. I don't understand.

MR. GEORGE: Your Honor, to expedite things, I would interpose some objection here.

With all due respect to Mr. York, I hope he's not going to take us through all the controversial measures of the Legislature. It seems

like we need to have some kind of ground rules about some relevance to minority interests.

JUDGE GOLDBERG: Well, he started with low numbers. Let's just see how far he goes.

(LAUGHTER)

JUDGE GOLDBERG: We may then establish some ground rules.

MR. YORK: Your Honor, there were about 2,500, bills introduced, but not all of them were passed.

BY MR. YORK:

Q. Would you think that a bill relating to the adoption of children by members of the same race, House Bill 262, are you familiar with that bill?

A. I have looked it up in the House Journal, yes.

Q. You think minority interests would be interested in that bill?

A. I think there might be more there than in the other two.

Q. Do you know that none of the members of your delegation voted against that bill?

A. I know that. I'm not sure but what there hasn't been a Court ruling on that at some point. That was

my impression at the time the bill was brought up that that was something that was being decided by the Courts, had been decided by the Courts.

Q. You think that the minority groups would have a greater or lesser interest in the right of an injured employee to select a licensed physician or a chiropractor on his own by his own choice under Workmen's Compensation Law? You think the rich whites or the poor blacks and browns would be more interested in that?

A. I think the poor blacks and browns and labor would be more interested in that.

JUDGE GOLDBERG: What number is that?

(LAUGHTER)

MR. YORK: House Bill 166, Your Honor.

JUDGE GOLDBERG: You're going back. Go ahead. What was the answer?

THE WITNESS: Oh, I think that the blacks, browns and labor---. I understand labor supported that bill and pushed for it, and I do think that that benefits any of the working people.

Q. How many of the people in your delegation voted against that?

A. I can't recall. I don't think any of them did -- maybe one.

Q. Out of nine?

A. Out of nine.

Q. What is it, without going through all these bills, what is it in terms of legislation recently that more specifically this delegation has failed to do or has done which you would say they shouldn't have done, which would indicate an unresponsiveness to blacks and browns?

A. Oh, I don't think it is what they have or haven't done on votes that have been taken, but we have not had a single member of our delegation since the 1950's who would introduce any legislation that the blacks or browns might be interested in, and when our delegation comes home to Tarrant County, they certainly don't go to the black and brown leaders to find out what legislation they might be interested in. I could name you some things they have opposed that I think the black and brown communities were vitally interested in. Our delegation voted for the sales tax. They voted for the city sales tax. These are things that the black and brown delegation from Tarrant County went on record as being opposed to. There has been no one carrying and really fighting for and getting passed a day care center bill for this state. We have lost our federal drug rehabilitation center in Fort Worth on the basis that the state was going to take it over. There has been no one in our delegation to fight to get that kind of service back in the community by the state. It's not so much how our

members vote. It's that blacks and browns and poor of Tarrant County cannot look to any member of their delegation, maybe one, maybe two, to carry the kind of legislation that they have to look to some black representative from Dallas or Harris County to introduce, and this is the lack of representation. They do not have an ear in Austin.

Q. You say that they can look to only one and maybe two?

A. That's correct.

Q. How many blacks do you say could be elected under your plan?

A. At least one, but we wouldn't necessarily lose the one or two that they now look to.

Q. They have now got one or two that they look to under multi-members, but under your plan they would elect maybe one, maybe two?

A. Plus the one or two presently serving that is responsive to them.

Q. This plan that's been suggested to show feasibility, does it pare every single incumbent with the exception of Mr. Willis?

A. No, it does not pare Mrs. Miller. I will say that until these nine lines were drawn I made an effort not to know where the present delegation lived, because I know most of them. I knew the exact location of two of them,

but I had to go the the courthouse after the lines were drawn in order to determine where they lived, and it was only then I found out that they were pared.

Q. Do you know of any studies, or have you conducted any studies to determine whether or not there is any correlation between either black or brown voter turnout in single-member versus multi-member districts? Specifically, have you made any such studies in Dallas, Harris or Bexar Counties to determine whether or not the black turnout went up when they went to single-member districts?

A. No, I haven't had time to make those studies.

Q. You haven't had time?

A. No, I have been making these studies. I haven't had time to go study another county, so I would have to say that I don't know.

Q. O.K. Is there any single one -- any single district drawn here -- what would be the greatest brown population in any of the districts that are on this map?

A. District 1 has 22 percent brown. It has every census tract in it where there is a greater than 30 percent brown except one. There's only one census tract with more than 30 percent brown that's not in District 1.

Q. What is the dropoff to the next highest

brown percentage?

A. Oh, the next one goes down to -- just a moment -- to about 7 percent in District 7, which is the northwest district, which is sort of a blue-collar working man's district.

Q. Is it your impression or view that the browns and blacks would consistently vote with each other on all issues, or is there a substantial division between browns and blacks, both in terms of personality and in terms of issues?

A. I think on economic issues they probably find a greater common ground than the white community does with either group, because they're closer in their economic problems. Other than that, I have no opinion as to---. But most of them are interested in day care, low sales taxes, the same things that I think any low-income person is interested in.

Q. Would you think that based on your experience there would be a polarization between browns and blacks? If in one of these districts that you have got there were a brown and a black candidate, would you expect voter polarization for the brown and for the black on the other hand?

A. I would imagine there would, at least when the idea is new that might happen.

Q. What is the largest black percentage in the most predominantly black district that you have drawn there?

A. It is 50 percent.

Q. And what is the dropoff to the next one?

A. Forty percent.

Q. So that given the statistics you have mentioned of voter turnout, if you assume for a moment that that wouldn't change under single member, you may disagree with that, but assume that for a moment. There would be little way for a black to get elected without substantial white support in those districts?

A. No, you have 50 percent black in District 1 and 28 percent white and 22 percent brown, so with a little support from either the white or brown, the black would get elected.

Q. And the next district?

A. In the next district there's 57 percent white, 40 percent black. I doubt that a black would get elected in that district next election, but that is the district where the black population is moving to. Two new precincts have become black in that area in the last four years, and I expect that the growth there will be greater, and it will be a matter of time until that has a high percent black.

Q. Mr. Gaskin, who has been mentioned, actually

did not carry the majority of the black precincts when he ran. He, as a black, ran and did not carry the black precincts, did he?

A. That's correct.

Q. Mr. Willis carried the black precincts by a fairly overwhelming margin, didn't he?

A. Well, yes, without a runoff. There were three candidates.

Q. And the other example -- seemed to me like you were talking about a three-to-one---.

A. Split, yes.

Q. ---split. Was that in the Gaskin race or was that Webber?

A. No, usually the black candidates gets three-to-one black votes in the black district. Gaskin did not. He got 32 percent black vote, but you have to understand that Gaskin did not have the support of the black organization nor the brown PASO nor labor, and that does make a difference in all our precincts, particularly black ones.

Q. The one exhibit which you mentioned as being used apparently by one of the Republican candidates, something to do again with the touchy subject of busing---.

A. Yes.

Q. ---when was that put out?

A. It was put out in the primary--no, in

November of last year when the Republican candidate against Mrs. Chris Miller -- and it accused her of being in favor of busing and said that he would vote against forced busing.

Q. You think it is hard at times to tell the difference between what we might call racism and just plain old dirty tricks?

A. I don't know. I have always been able to figure out racism when I see it, I think.

Q. You can tell that from Republican dirty tricks?

A. I don't believe that this candidate would have undertook dirty tricks.

Q. Oh, I'm not by any means meaning to impune that particular candidate.

A. This is the kind of leaflet that he stood in front of the bank and passed to people. I don't think we can attribute it to dirty tricks.

MR. YORK: Thank you, Your Honor.

EXAMINATION

BY JUDGE WOOD:

Q. Do you agree with Mr. Sifford that the most important element in electing a State Senator is prior public

exposure to the voters? I'm talking about State Senator, he said, and plus the endorsement of the special interests of the labor and the business community.

A. Yes, sir.

Q. You still agree that that is true?

A. I think the amount of publicity a man has had is a great factor.

Q. And the endorsement by the labor community and the business interests?

A. Labor community or the business interests.

Q. And/or?

A. Uh-huh.

Q. If you get both, you're almost in, aren't you?

A. Yes, sir.

Q. Now, what is the size of your senatorial districts?

A. They're approximately half in Tarrany County. That's a figure I haven't looked at recently.

Q. About how many would you say?

A. Roughly just over 300.

Q. Senatorial districts, of course, are single-member?

A. That's correct.

Q. All through the state. The United States

Supreme Court held that those single-member districts as they now exist and form the basis for the senatorial districts are constitutional. You are aware of that in this state?

A. Yes, sir.

Q. Would this same test that Mr. Sifford has prescribed, that is, former voter exposure -- take the case of Mr. Doyle Willis -- and the endorsement of the labor interests and/or the business community still be factor in single-member districts of the Legislature?

A. Not near as great a factor, I believe.

Q. Well, I'm going to ask you, when you're dealing with 75,000 voters, would that be a factor, former exposure plus endorsement by the labor or business community in those single-member districts?

A. I can only go back to my own experience where I have run and have worked in campaigns for City Council where we had 100,000 voters and -- no, we don't look for it.

Q. Is that a factor in Dallas? In other words, the ideal population is 75,000 people for representatives where you have a single-member district. Is it a factor under your study as an expert in Dallas County, that is prior voter exposure, as Mr. Sifford says in the senatorial district, and also endorsement of the business and labor community? Is it essential?

A. Oh, I think it is a factor. I think it would be essential in some.

Q. What about Bexar County?

Have you made any study there of whether labor endorsement, prior voter exposure and endorsement by the business community is a factor?

A. I would have to say I have not done any work in Bexar County since 1968, and I'm not that familiar with it.

JUDGE WOOD: That's all I have.

EXAMINATION

BY JUDGE JUSTICE:

Q. I have a few questions. In relation to the Tarrant County legislative delegation, are you aware of any type of legislation in the form of bills that's been offered by any member of that group which had to do with nondiscriminatory housing?

A. I don't know of one in recent years.

Q. In recent years? You mean never or you're just not aware of any, or has there been any.

A. Seems to me like there may have been one several years ago, but when I think of the people who are in

the present delegation I don't recall one having been introduced.

Q. Are you aware of any civil rights legislation that's been suggested by any member of the delegation from Tarrant County?

A. No, I do know that several members of our delegation voted against the Martin Luther King birthday resolution. None of them introduced it, but some of them did vote against it.

Q. Are you saying then that that indicates some type of hostility toward the black community's interest in that proposed holiday?

A. I don't know whether it's hostility or they just didn't really take into account what the black community felt about it.

Q. Has there been any type of legislation or any type of bill offered by any member of the Tarrant County legislative delegation relating to non-discriminatory education as it relates to minority groups?

A. Not to my knowledge.

Q. Has there been any type of bill offered by any member of the Tarrant County legislative delegation which had to do with bilingual education?

A. I don't think any of them offered it. I know that nearly every member of our delegation -- in fact, I

think every member of our delegation did vote for the bilingual education bill.

Q. They did vote for that.

A. They did vote for it. I don't believe any of them even co-sponsored it, though.

JUDGE JUSTICE: All right, thank you.

EXAMINATION

BY JUDGE GOLDBERG:

Q. One question. My arithmetic is poor, but I arithmetically compute that the equal districts among the nine would come to 57,040. Is that right or wrong?

A. 75,045, I believe.

Q. I knew it would be wrong.

(LAUGHTER)

Q. What is the major percentile deviation now existing in the district?

A. In the district?

Q. Yes. In other words, under the propcsal-- I didn't state the question accurately.

Under your feasibility exhibit -- I'm going to call it that -- under your feasibility exhibit what would be the largest percentile deviation in splitting up 39 (sic)

into single-member districts? Is that clear?

A. I believe so. You're asking me how much these district lines vary?

Q. Yes, ma'am.

A. I believe it is a little less than 2 percent. I do not have the figure, but our smallest district is 74,514 and our largest one is 75,737. There's less than a thousand people difference in all of them.

Q. How long have you been active in political campaigns in Tarrant County?

A. Since 1957 in the U.S. Senate special election is the first time I did any political work.

Q. Is it your opinion that there is an organized -- I do not mean by the term "organization" with charter and by-laws -- but is there within the broad scope of the word "organized" slate-making rules that has generally dominated the results of the legislative elections in Tarrant County?

A. Yes, sir.

Q. Upon what do you base that conclusion?

A. Well, having been around campaigns, you see people shape up on different sides of a campaign. Generally, there are two, one the labor-liberal-black-brown coalition and one the Seventh Street candidates, and they are pretty evenly divided. You know who they are within two weeks after

filing deadline.

Q. Does the so-called Seventh Street "organization" in your opinion attempt to accomodate its slate to the general ethnic groupings of Tarrant County and their legislative requirements?

A. Well, I don't think they have ever supported a black or a brown for the Legislature.

Q. Do you think it is absolutely necessary that a black or brown represent the ethnic interests of the people of Tarrant County in the Legislature of Texas?

A. I certainly do. I think that a black or brown certainly could represent black and brown and white people, particularly in a district predominantly black and brown. He knows the problems. He's lived with them all his life. I think even from a sympathetic white they just haven't had the same problems that the black and brown community experience. I think it is very helpful to have someone from the minority group as a member of the elected group.

JUDGE GOLDBERG: Thank you very much.

Now that the Court has interrogated, do any Counsel have any further questions?

MR. GLADDEN: I have, if it please the Court.

REDIRECT EXAMINATION

BY MR. GLADDEN:

Q. Mrs. Fischer, you began work on your feasibility proposal some months ago, did you not?

A. That's correct.

Q. You were aware of the fact that the original case was tried some two years ago and that there was some possibility that Tarrant County would be involved in redistricting. Is that correct?

A. That's correct.

Q. As a matter of fact, you kept up with the fact that the Texas Legislature did consider a proposed bill wherein there were proposed lines presented by several members from Tarrant County. Is that correct?

A. That's correct.

Q. And you are aware, are you not, as far back as 1961 there was a proposal introduced and suggested that single-member districts be drawn for Tarrant County. Are you not?

A. Yes.

Q. And that the members of the Texas Legislature from District 32 also were aware of this Court's ruling

in the Dallas and Bexar County circumstances. Is that correct?

A. Oh, yes.

Q. And they were aware of the Harris County single-member district legislation or the action that the Legislative Redistricting Board adopted, are you not?

A. Yes.

Q. And they are aware of that. Is that correct?

A. Yes.

Q. So they have had just as much time to anticipate some suggestion that single-member districts are coming to Tarrant County as you have. Is that not correct?

A. Oh, yes, sir.

Q. As a matter of fact, they have anticipated that and have considered legislation in connection with it, have they not?

A. Yes, and many of them used it as a campaign issue.

Q. All right. In connection with the percentile deviation, it's actually about 1.62 percent deviation. Is that not correct?

A. Yes, sir.

Q. Now then, there's one or two other questions. You told in respone to Judge Justice's question that

you were not aware of any legislation that any member of the Tarrant County delegation has ever offered relative to various ethnic priorities, did you not?

A. I thought he was saying recent legislation.

Q. In that connection, you did testify you were aware at the time of the depositions of Mr. R. C. Johnson that one member did introduce a bill back in 1959 to strike the requirement that school districts have a local option election prior to the time that they integrated public schools. Is that correct?

A. Yes, I am.

Q. Other than that one instance, are you familiar with any legislation that was offered directed toward specific ethnic needs of the black and brown community of Tarrant County?

A. No.

MR. GLADDEN: I believe that's all, Your Honor.

RECROSS-EXAMINATION

BY MR. MARTINEZ:

Q. First off, as to the bills you were asked---.

JUDGE JUSTICE: Give us your name, Counsel.

MR. MARTINEZ: Excuse me. George Martinez for Intervenors.

Q. You have been asked about a number of bills that Counsel for Defense asked you about. Do you know whether any of these bills were burning political issues in Tarrant County?

A. Probably the only one that even got much notice at all was the right to choose a physician, and that was a sort of a burning political issue among the labor organizations. I don't know that it was in the minority communities at all. The other just barely made the newspapers.

Q. Now, you have testified concerning census figures relating to single-member districts. If single-member districts were ordered, would you be willing to turn over your information to the incumbents so that they might expedite their becoming familiar with the districts that are drawn?

A You're putting me on a political spot, sir.

JUDGE GOLDBERG: What is the question?

MR. MARTINEZ: Whether or not she would be willing to turn over the information to the incumbents, so that they could become familiar with the districts.

JUDGE JUSTICE: Well, I would assume it is all in the census tracts, isn't it?

THE WITNESS: Yes, and I believe it is of record now that it has been submitted to the Court. I assume that I would.

Q Assuming that such things be ordered, shouldn't the legislators study their district prior to running? Don't they do that as a matter of course?

A Oh, most definitely. If they didn't study their district prior to running or weren't worried about what kind of districts they were going to run from, House Bill 12 would never have been passed.

Q Now, with reference to representation of the wealthy, are they under-represented at present?

A Well, I think that depends on which side of the fence you sit on.

Q In your opinion.

A In my opinion they are probably adequately represented, but I am sure that if I were in a $40,000.00

mean family income census tract and owned oil wells I would not feel like I was being represented very well by the people in Austin.

Q With reference to legislation, would black and brown voters be interested in civil rights legislation, open housing type thing?

A I think very muchly they would. I know in Tarrant County that has been an issue at local levels in City Councils.

Q Now, you testified that candidate Webber did well in the black and brown precincts when he ran?

A Yes, he did.

Q And that he did not do well in the precincts that were white?

A That is correct. He lost by three-to-one in the white precincts.

Q Are you aware that he did have the backing of the "labor-liberal" coalition?

A Yes, I am.

Q Now, it came out in depositions that I am assuming you are familiar with, and if not, let me know, that this coalition is made up of union labor, non-union labor, blacks, browns and white liberals?

A That's correct.

Q Do you have an opinion as to why that broke

down when Mr. Webber ran?

A Well, if I can refer back to the deposition, it was not my testimony, because I wasn't asked the question, but I believe Mr. Sifford was asked the question, and he said that when it comes to labor endorsement they just can't hold their voters hitched when it comes to voting for a black.

Q So even with an endorsement, they don't vote for a black. They break down along racial lines?

A Yes, sir.

MR. MARTINEZ: Thank you.

JUDGE GOLDBERG: Mr. York?

MR. YORK: Just a few more questions, if Your Honors please.

JUDGE GOLDBERG: You think you can finish in 15 minutes?

MR. YORK: Yes, sir.

JUDGE GOLDBERG: Proceed.

RECROSS-EXAMINATION

BY MR. YORK:

Q Who was the unidentified member of the Fort Worth delegation in 1959---.

(LAUGHTER)

Q ---to cast the only vote in favor of minorities that has apparently ever been cast in Tarrant County?

A I don't think he cast the vote. I think he carried the legislation. That was Attorney Don Gladden.

Q Oh. Did you forget about Mr. Gib Lewis seated across the table who co-sponsored at two sessions the bilingual education bill?

A I wasn't aware that Mr. Lewis had co-sponsored that bill. I'm sorry.

Q That's been a little more recent than 1959, has it not?

A That's true.

Q Now, is there, in fact, a slating process -- we've talked about a slating process, and all of us have read the Dallas opinion in this case, but is there, in fact, any slating process where any single group of individuals get together and decides who is going to, in effect, win the primary? Labor doesn't always get what they want, and business people don't always get what they want, do they

A No, but I would say that they win more than 50 percent of the time, the business people do.

Q Well, and that would mean that the labor people lose something a little bit more than 50 percent of the time?

A That's correct.

Q But it's still a divided battling kind of thing that democracy is supposed to be all about, isn't it?

A That's correct. However, in the slating process the black and the brown -- they only are invited into the Counsel chambers after filing deadline. These other two groups start encouraging candidates to run prior to filing deadline, and there is a difference.

Q Well, where are the slate cards that the Seventh Street group puts out? Do you have some of those with you?

A They're rather hard to come across. They're usually -- I have only seen approximately ten in my entire political life, and I have never been able to hold onto one.

Q Do they self-destruct or what? (LAUGHTER)

A I have never been given one. I have only been shown those slate cards by people who said, "Look what somebody sneaked into my hand while I was in the Continental National Bank Building."

Q Is that the only place where they hand them out, or could it happen to you anywhere?

A It could happen to you anywhere in the downtown business district, but I have never had someone just walk up and hand them to me like they do the other kind of slate cards when they stand on the street corner and hand

them to everyone who comes by. They're rather selective.

Q Well, maybe I don't recall Mr. Sifford's testimony correctly, but you were there when the depositions were taken. Didn't he tell us he wasn't aware of any slate cards being put out by the so-called Seventh Street group?

A I think he testified, and I think that's what I am saying. They're not always put out like I've only maybe seen ten, and there's been a lot more than ten campaigns since I have been in politics.

Q How many years would that cover?

In how many campaigns have you seen ten what purported to be slate cards from this shadowy establishment downtown?

A I would say 20 primaries, but it would not be 20 primaries and 20 runoffs and 20 general elections. It depends on how often they are put out and what-not. You might say if you have runoffs it would only cover five times.

Q Well, isn't it a fact -- is there any organization you can point to downtown in the Seventh Street area where there's a president of the Seventh Street group and a vice president?

A No, it is not that kind of organization.

Q Do they have meetings where they get together and put up a sign and say, "The Seventh Street group will be meeting---?

A No, I'm sure that they don't. I know a few of the names that are very influential in encouraging certain candidates to run and in supporting those candidates if they do run.

Q Well, isn't it kind of a loose amalgamation of business people who meet from time to time who happen to commonly support some of the same candidates in elections from time to time?

A I would say that is a fair statement if you would add that they support and finance quite well those campaigns.

Q And labor people support and finance to the extent that they can their candidate?

A Yes, to the extent that they can.

Q And they have a structured organization, as I understand it. Mr. Sifford has described the council in detail on his deposition, but it is a structured organization, so that if you wanted to know who was in the more or less political arm of the Trades Council, it wouldn't be difficult to find that out?

A Yes, they have a structured organization based more or less on the democratic process. People are elected to serve on those committees in the labor organization.

Q Now, hasn't the so-called Seventh Street

group or members of the business establishment that one might think would be part of the Seventh Street group supported black candidates for the City Council in the last six to eight years?

A Yes, they have supported the black candidate for City Council, and he was elected. That was only for the City of Fort Worth, though, which has a much higher population percentage of black than District 32 does, because it is the white suburbs who are 100 percent white.

Q Do you think that the -- you mentioned in your view it was almost necessary apparently that a black represent blacks and a brown represent browns.

Do you think that a wealthy black could adequately represent poor blacks? Would he be better at it than say a poor white?

A I think a wealthy black can represent a poor black as well as a wealthy white can represent a poor white. I think that every voter will have to consider political philosophy and the background. I think if you have single-member districts, there's not going to be the choice between one wealthy black and two white people. There will be a choice between several black people, and the black community can make up their own mind.

MR. YORK: Thank you, Mrs. Fischer.

FURTHER EXAMINATION

BY JUDGE GOLDBERG:

Q I want to ask a question. In the closing days of the primary race for the Legislature, does there appear in the newspapers of Fort Worth a slate of candidates or rival slates of candidates, "Vote for the following people." Do such type of ads appear?

A Yes, sir, on occasions they do. I wouldn't say that they always do, but on occasions that is certainly true.

Q Well, when you say on occasions, you mean -- is it more frequent than infrequent?

A I would say it is more frequent than infrequent, but occasionally Seventh Street and labor has agreed not to pick on each other, and so those slates won't appear, but generally, yes there are slates. If there are not slates, there will be little individual ads signed by various prominent Seventh Street businessmen saying, "I endorse Joe Doe," and then another prominent Seventh Street businessman who will endorse Jim Lewis and so on down, so you get the idea.

JUDGE GOLDBERG: Thank you.

Yes, Mr. Gladden?

MR. GLADDEN: I have only one or two questions, if it please the Court.

JUDGE GOLDBERG: You mean you haven't exhausted Tarrant County yet?

MR. GLADDEN: The problem that I have is that in deference to Counsel I didn't go into depositions, and there has been some inquiry made relative to matters that were covered in the deposition. I would like to ask Mrs. Fischer---.

FURTHER REDIRECT EXAMINATION

BY MR. GLADDEN:

Q You made reference to the fact that occasionally labor and business do endorse or agree to "hands off" on relative slates. Is it essential that -- well, first of all, in the slate-making process is it -- even though you can't necessarily get elected by reason of being on one of the slates, is it essential that you be on one of the two slates in order to for all practical purposes have a chance of winning?

A Yes. I think in order to raise money from the rest of the community you need to be on one of those

slates.

Q And the other question. Were you present at the time that Mr. Sifford gave his deposition when he said that they have on two occasions endorsed black candidates for the Legislature but only for the purpose of attracting black votes for their white slate of candidates?

A Yes, I was there and did hear him say that.

Q And that at no time did he anticipate that the black candidates that they endorsed would win?

A That is correct.

Q And that the money that the labor community delivered over to the various candidates of their selection was programmed or divided on a who-can-win-and-who-can't-win basis?

A Yes, that's what he said.

Q And you did hear him testify to that in connection with the slate-making process of Tarrant County?

A Yes.

JUDGE GOLDBERG: Any interrogation from this side of the room?

Mr. York?

FURTHER RECROSS-EXAMINATION

BY MR. YORK:

Q Did the present State Senator, Betty Andujhar, have the endorsement of either the labor group or the so-called Seventh Street group?

A I don't know that she had the official endorsement of labor. To tell you the truth, I was so busy in that spring I didn't pay much attention to the other candidates, but unofficially Mrs. Andujhar had the help of many labor people, if she didn't have their official endorsement.

MR. YORK: Thank you.

JUDGE GOLDBERG: We shall return at 1:30 and commence our tour of Texas from Tarrant County.

(REPORTER'S NOTE: The Court then, at 12:15 o'clock, P.M., December 3, 1973, recessed until 2:00 o'clock, P.M., the same day, at which time it reconvened.)

December 3, 1973
1:49 PM

JUDGE GOLDBERG: The Court apologizes for the late tour of the State of Texas, but we couldn't help it. Before we leave Tarrant completely, is there anything in the depositions which will show us how many blacks have been supported by labor groups in Tarrant County in recent years?

MR. GLADDEN: Yes, Your Honor. The Plaintiff Escalante's Exhibit relative to the deposition of Mr. J. W. Sifford as well as Mrs. Betty Fischer will reflect that two of three blacks were supported by organized labor. But again, the deposition will also indicate that labor did not anticipate their winning, but did put them on to get out the vote for their white candidates on the slate. There is some evidence to that effect in the deposition, Your Honor. Before leaving Tarrant County, however --

JUDGE GOLDBERG: I didn't mean to cut you off.

MR. GLADDEN: Fine. At this point in time, if I may, Your Honor, a little house keeping chore, in terms of the depositions we have marked the three deposition exhibits, Mr. Johnson's Exhibit as Plaintiff Escalante's Exhibit 23, Mr. Sifford's Deposition as Plaintiff's Exhibit Plaintiff Escalante's Exhibit 24 and Mrs. Fischer's deposition Plaintiff Escalante's Exhibit 25.

We have tendered previously the slate cards, the

original slate cards which we have now identified as Plaintiff Escalante's Trial Exhibit 18A through I which correspond with the Xerox copy of the deposition exhibits.

We have previously offered in connection with the Lined question, Plaintiff Escalante's Exhibit 1G which is a census track compilation of the lines as shown on the map. And 1G Prime, which is the ethnic and economic makeup of those. We tender those to the Court. And there was no notation by the Clerk as to their being received. We would like to tender those again.

JUDGE GOLDBERG: Received.

MR. GLADDEN: At this time we would like to call Mr. Marvin Collins, Your Honor.

MR. YORK: Your Honor, before we leave that point, I think I had mis-stated something earlier to the Court about the depositions. I believe that the Fort Worth Depositions were depositions where we did reserve objections.

MR. GLADDEN: This is correct.

MR. YORK: We had followed various procedures, and I think Ft. Worth may have been the only one where we did waive objections. I'm not certain. If it would be all right with the Court, what we would like to do is tender written objections to whatever questions we would object to. I don't think it would unduly impede the proceedings or hurt anybody.

JUDGE GOLDBERG: Yes.

MR. GLADDEN: The only thing we have, Your Honor, is it puts us in a position of not knowing what evidence to defend in the event that they did tender written objections to certain portions of the depositions testimony. It makes us in a position where if it's going to be excluded we might have live testimony that could correct their objections. Now, we feel like we were the first parties that took depositions, as I recall, and we feel like that the State has had ample opportunity to know what their objections would be to the depositions and we feel like -- it puts us in a rather difficult position as to what evidence to put on.

JUDGE JUSTICE: How soon can you prepare written objections?

MR. YORK: We can have them here tomorrow, Your Honor. I doubt that they will be terribly extensive.

JUDGE JUSTICE: Well, in the event you do have objections, I assume we can hear some further evidence.

MR. YORK: Absolutely.

MR. GLADDEN: We would like to reserve that. At this time we would like to call Mr. Marvin Collins, Your Honor.

JUDGE JUSTICE: Is there going to be any contest about attorney's fees?

MR. YORK: Your Honor, I expect certainly there would be a contest as to whether the requisite bad faith has

been shown to entitle --

JUDGE JUSTICE: I am speaking of the number of hours spent in this kind of thing.

MR. YORK: As far as that end of it is concerned, we don't know what those hours are. Presumably, that wouldn't be a matter that would take this Court's time very much. We have not been advised --

JUDGE JUSTICE: I thought maybe you could stipulate. Go ahead.

MR. YORK: We may be able to.

MARVIN COLLINS,

called as a witness by the Plaintiff Escalante, was duly sworn and testified as follows:

DIRECT EXAMINATION,

By Mr. Gladden:

Q State your name to the Court, please.

A Marvin Collins.

Q You are associated with me in the practice of law, is that not correct?

A That's correct.

Q In that connection, you have had an opportunity to see and observe and participate in the preparation of this case for trial, have you not?

A That is correct, since the beginning of the -- before the case was filed.

Q And in that connection, you are aware of the time that you have spent and the time I have spent as well as the time Mr. Art Brender of our office has spent in connection with the case, is that correct?

A That's correct.

Q I have asked you to prepare and to tell the Court in terms of what time was spent, if you will do it as briefly as you can, what time has been spent by each of us in terms of attorney's time as opposed to paralegal time like Mrs. Fischer might have spent in preparing the case.

A Yes. First of all, let me say that you are a licensed attorney with almost 20 years of experience in the practice of law. I am licensed in this state and you are also with somewhat over three-and-a-half years of experience. And Mr. Brender who just graduated from law school has approximately six months of experience and assisted only in small ways in the preparation of the suit.

I have quickly made a run down and I have deliberately tried to be conservative about the amount of time we have spent. I have characterized the time we have spent first in terms of actual preparation of legal instruments. And that time totals 32.25 hours which is in preparation of the legal instruments such as complaints, briefs and so forth. In the

brief I have included the time devoted to research by the attorneys in connection with the preparation of those briefs. We have filed a number of briefs and pleadings. I have tabulated the hours, the amount of time we have spent preparing our evidence. And I have tried to be conservative about this. We have 80 exhibits that are now in evidence. And I estimate that the legal time spent in the preparation, compilation, evaluation and so forth of these exhibits was about 30 hours. There was a great deal of time spent preparing the evidence.

On the taking of depositions, the notice, preparation, arrangements for a Court Reporter and so forth took one hour. The actual time in depositions by yourself, myself and Mr. Art Brender was a total of 10 hours. Excuse me, 18 hours. Eight hours for me, eight hours for you and Mr. Brender was in the deposition only for a period of two hours.

I have calculated the accumulative time in trial that we have spent today as just a half day apiece for eight hours. And I have not included any projected amount of time that we may spend the rest of this week in this Courtroom. So far it totals eight hours.

The trial preparation, actually having conferences between you and myself and the witnesses and compiling our exhibit lists and so forth, we spent a great deal of time at that. And I would estimate that conservatively at 15 hours.

The miscellaneous items such as correspondence, I

estimate at 16 hours. And in that connection we have sent out of our office at least 36 individual pieces of correspondence. Some of them running into multi-page correspondence.

Our time on the telephone directly preparing for this case, I have estimated at five hours. There have been a number of phone calls to San Antonio and Austin and so forth in preparation for this suit.

Meeting we have had with other attorneys in preparation of this suit I have estimated at one four hour meeting which you attended and one three-and-a-half meeting which I attended in San Antonio.

The total number of hours that I have reached is 132.75.

The next part of this I have tried to be as fair as I can in allocating the time between you and myself and Mr. Brender who are less experienced. And I have estimated that your preparation time constitutes approximately 65 percent of these hours, that mine along with Mr. Brender constitutes 35 percent. And probably Mr. Brender no more than five or ten percent. He was involved in a few specific aspects, so his involvement was not as great.

I am familiar with reasonable attorney's fees in Fort Worth, Tarrant County, Texas, and to some extent in Austin. And I would say that for an attorney with almost 20 years of experience like yourself, a reasonable fee would

be $50.00 an hour. And for an attorney like myself and Mr. Brender, $35.00 an hour. And I have calculated based upon allocating 65 percent of the hours to you and 35 percent to myself and Mr. Brender that you spent 86.29 hours. We spent 46.46 hours which is about two to one. And multiplying those out, 86.29 hours that you spent by this $50.00 is $4,314. 46.46 hours times the $35.00 an hour for me and Mr. Brender is $1,626 for a total of $5,940.

In connection with the total amount here I have made a rough estimate of our expenses which we are not asking for, but just to show that there is some reasonable relationship to the hours and expenses we have had in this lawsuit, they probably would total somewhere conservatively in the neighborhood of approximately $1,200. And none of this time includes any para-legal time such as witnesses who have done much research and so forth. This is just lawyers time.

Q Incidently, neither you nor I have been admitted to practice before the Western District of Texas, have we?

A No, sir.

Q It just occurred to me, Your Honor, that we have not. And I wanted to apprise the Court of that. I pass the witness.

CROSS EXAMINATION,

By Mr. York:

Q. I might say, Your Honor, we had not intended to raise the question of who was admitted to practice before the Western District because that might cause some embarrassment to the Attorney General's table.

Who would pay this fee if it were not ordered by the Court to be paid by the tax payer?

A. There is no one to pay this fee. We have no other person in our organization who is underwriting this lawsuit.

Q. No client has agreed to be responsible for your time?

A. The clients we represent do not have the money to pay even a fraction of any of this.

Q. Any interest or entity or organization that would be likely to pay it?

MR. GLADDEN: If the Court please, I doubt that Mr. Collins is as aware of, and if I may state to the Court what the circumstances are because he doesn't handle the money in our office. I do. And if you would like for me to apprise you of what the relationship is, I would be happy to. As of this point, we have had $300.00 contributed, $200.00 by one organization and $100.00 by one of the witnesses. And other than that $300.00 that has been applied onto the expenses of the lawsuit involving our client, that's all that has been received.

And we anticipate perhaps that some of the local

liberal community may attempt to pick up some of the expenses.

MR. YORK: That's all we have, Your Honor. Thank you.

MR. GLADDEN: The Plaintiff Escalante rests it's part of the case, Your Honor.

JUDGE GOLDBERG: Did you want to ask this witness any questions?

MR. BONNER: No, Your Honor.

MR. GLADDEN: If the Court please, in connection with the handling of the Tarrant County aspects, as the Court knows two lawsuits were filed and consolidated. Mr. Bonner represents the Plaintiffs Gaskin and others. And at this point I think he does have a witness that he is going to present on behalf of his lawsuit.

MR. BONNER: Thank you. If it please the Court, I have two witnesses whose testimony I expect will be very succinct, to the point and brief.

JUDGE GOLDBERG: Let's go.

MR. BONNER: We call Mr. Bobby Webber.

MR. YORK: Your Honor, we were not provided with a witness list by Mr. Bonner to the effect that he would call any witnesses I'm aware of. The Court ordered that all parties exchange those witness lists on Friday of this past week, but we have not been provided one by Mr. Bonner. We would be forced to enter an objection to the witness's testimony

on that basis.

MR. BONNER: If the Court please, I did advise the Attorney General's Office that I did plan to ask Mr. Webber to offer his testimony. And at that point neither Mr. York nor Mrs. Levatino expressed any objection.

MR. YORK: That was this morning in Court as I recall.

MR. BONNER: That's right.

JUDGE JUSTICE: Is this an expert witness?

MR. BONNER: The witness can qualify as an expert, yes, sir.

JUDGE GOLDBERG: Well, let's hear what he has to say and let's consider--after we hear him, Mr. York, we might strike his testimony. Let's see how much surprise and shock might come to you. I don't have any machine to test it, but we will do our best.

BOBBY WEBBER,

called as a witness by the Plaintiff Gaskin, was duly sworn and testified as follows:

DIRECT EXAMINATION,

By Mr. Bonner:

Q. Would you state your name, please.

A. Bobby Webber.

Q. Mr. Webber, are you a resident of the city of Ft. Worth?

A. Yes, I am.

Q. Tarrant County?

A. Yes.

Q. Do you live in Legislative District 32?

A. Yes, I do.

Q. What is your occupation, Mr. Webber?

A. I am President of Mitus Investment Corporation.

Q. And how long have you lived in Ft. Worth?

A. I've lived in Ft. Worth all of my life.

Q. How old are you?

A. I am 36.

Q. 36 years. Turning your attention, Mr. Webber, to the spring or winter and spring of 1972, did you have occasion to consider running for public office?

A. Well, at the time I considered running for public office. I had sought to support other candidates, but when no candidates that I felt were representative of the ideals and ideologies reflected in our community that were coming forth, at this time I chose to run.

Q. And what office did you run for?

A. State Representative, place 5.

Q. From District 32?

A. Right, Tarrant County.

Q. I see. And in connection with your running for office, Mr. Webber, you did file before the deadline and you were a candidate, is that correct?

A. Yes, sir.

Q. Would you tell us about your campaign, Mr. Webber. Did you have a media campaign relying primarily on radio and television exposure, or did you rely on a more personal approach?

A. Well, when I chose to run, I wanted to win. And we tried to mount the most effective campaign that we could, including media, including professional campaign managers and personal appearances.

Q. I see. Did you have a personal approach?

A. Yes, we did.

Q. Would you describe that briefly, please.

A. Well, for instance, we felt so desperately in trying to win that we actually went downtown in the city of Ft. Worth. We rode the buses. We shook hands. We went into the community. We knocked on doors. I would say that from March 1972 until June the 3rd, 1972 I was a full time campaigner.

Q. I see. What areas of the District did you campaign in, Mr. Webber?

A. I campaigned in all areas, the whole of Tarrant County.

Q. That included areas--I may state for the record that Mr. Webber happens to be a black person.

Did you campaign in areas that are predominately inhabited by white citizens?

A. I did.

Q. I see. What such areas were those?

A. Well, we campaigned in North Ft. Worth, Tylorville, Ridgeland Hills.

Q. And others?

A. Yeah, and others.

Q. Okay. Would you give us some idea of the expenses you incurred in your campaign, Mr. Webber?

A. In my total campaign, sir?

Q. Yes.

A. I think the record will reflect that I filed my campaign expenses and we spent about $25,000.

Q. Approximately $25,000?

A. Yes.

Q. What success did you have in your campaign?

A. I lost.

Q. Well, let's back up a second. You lost, but can you tell us how you lost? In what stage did you lose?

A. Well, I poled I would say in boxes that were predominately minority. We poled I would say 90 to 95 percent of those boxes in my favor. Other boxes that were predominately

white, we didn't do as well.

Q. Did you hear the testimony of Mrs. Fischer whose analysis of the results of your race with Mr. Schieffer showed that you garnered about 75 to 77 percent of the minority vote? Were you here when she testified to this?

A. Yes, I was here. But I think if we would go back and look at those boxes, I did more than that in predominately black boxes.

Q. Are we talking about the primary election at this point or the run-off?

A. I'm talking about both.

Q. Both elections. I see. Would you give us the results of the primary? Where did you come in in the primary?

A. I was second in the primary out of a four man race.

Q. And could you tell us the races of the other three candidates?

A. All of my opponents were white.

Q. And you were second in this race?

A. Yes.

Q. And you say you lost. I take it that you were not victorious in the run-off, is that correct?

A. That's correct.

Q. I see. Mr. Webber, do you have any conclusion or opinion as to your chances of being elected to the State Legislature from District 32 in an at-large election?

A. As I said before, when I went into the race, I wanted to win. And we did everything that I think was humanly possible to win. And we felt we were financially well organized. We felt that from the experience point of view, professional people handling our campaign, we were organized there. Physically, I mean actual physical effort into the campaign, I lost about 25 pounds doing that. So, I don't see at this point how it would be humanly possible for me or any other individual to win in Tarrant County from a minority point of view.

MR. BONNER: I pass the witness, Your Honor.

JUDGE GOLDBERG: Is your shock absorber enough to take this, Mr. York, or do you want to renew your motion?

MR. YORK: Oh, I am somewhat shocked and I would renew it, but I expect the Court might take it under advisement.

JUDGE GOLDBERG: We will. Do you want to cross examine this witness subject to your objection?

MR. YORK: Yes, sir.

MR. GLADDEN: I would like to cross examine him too, Your Honor, just one or two questions.

CROSS EXAMINATION,

By Mr. Gladden:

Q. Mr. Webber, you were supported by the Labor-

liberal-black-brown coalition, were you not?

A. Yes, sir, I was.

Q. In that connection, I'd like to ask you as to economic resources. I think there is already an exhibit in evidence that shows that you spent approximately $27,000 in your campaign. I'll ask you how much of it other than your personal resources was contributed to you by the black community?

A. By the black community about $1,300 or $1,400.

Q. All right. And the balance of that was made up by contributors from the white community or your own personal resources, is that correct?

A. Yes, sir.

MR. GLADDEN: We have no further questions, Your Honor.

CROSS EXAMINATION,

By Mr. York:

Q. I have just a few, Your Honor. Your opponent in the race who ultimately was successful and who was elected to the legislature was Tom Schieffer, is that correct?

A. Yes, that's correct.

Q. What age is Mr. Schieffer, if you know?

A. Now, he must be about 26. At the time we had the contest, he was 24.

Q. All right. How did you come out in terms of the ranking? I know you came in Number two in the first primary, but how did you come out percentage wise, if you start out with Schieffer's vote and yours and how the other two came out, what percentage of the vote did the respective candidates get?

A. In the primary and not in the run-off?

Q. Right, in the primary.

A. I don't know. I don't recall. I do recall in the run-off it was about 47 percent of the vote I think.

Q. You got 47 percent?

A. Yes.

Q. And he got 53?

A. Right.

Q. So, it was a fairly close race in the run-off?

A. I wouldn't say fairly close. I think we are talking about five or six thousand votes. He beat me by about five or six thousand votes.

Q. Percentage point wise, it came out 53 to 47.

A. Percentage wise, yes.

Q. And realizing that the black population of that district is what? Around--I believe we said 15 percent?

A. 12 to 15 percent.

Q. 12 to 15. Realizing that the black population constitutes 12 to 15 percent and the brown population

substantially less than that, for the race to wind up 53 to 47 would indicate that you had fairly substantial white support?

A. That's correct.

Q. All right. And would you expect from your knowledge of politics that if you were to run again in Tarrant County or that District, your name identification in the use of media and so on that it might enable you to run an even stronger race the next time?

A. I wouldn't anticipate that.

Q. Do you not agree that there is kind of a cumulative effect that others have talked about, an accumulative effect of having been on TV in 1972 and coming back in 1974 and being on TV again and running again for a job like that?

A. I would not agree with that. We are not going to have the same set of circumstances in a future race.

Q. You mean if the Court goes single member or do you mean--

A. I wouldn't say that the same circumstances would exist. Say for instance I might not have the desire to put out the effort that I put out, and maybe this would lessen my chances for winning. This is what I'm talking about.

Q. I'm saying that assuming you were to go at it the same hard way you apparently did this time and really work at it that you got 47 percent of the vote this time, doing

it the second time that you might reasonably expect, if there is anything to the idea, that continued exposure to the public adds to your acceptance by the public, that you might well do better.

A. I think it would depend on the race and the economic capabilities of my opponent.

Q. Weren't you somewhat in a way--I know you lost and you never like to lose, but were you pleasantly surprised in some respects to get 47 percent of the vote in a race with young white in the race you were in?

A. At the time, I was not surprised in that I felt I had done my homework. And I had run as effectively as I possibly could.

Q. You ran it better than for instance the labor people thought you were going to run though, didn't you?

A. I certainly did.

Q. And the truth is, I mean this is no slight to you, but I think the testimony has been given in some of the depositions before the Court by I believe Mr. Sifford, not speaking for himself, but generally from what the labor organization did, is that your selection in a way was a thing where they said "Well, we'll put a black on because we don't think we can beat this fellow Schieffer anyway." But you kind of surprised everybody, didn't you?

A. Yes, sir.

MR. YORK: Okay. Thank you.

REDIRECT EXAMINATION,

By Mr. Bonner:

Q. Just one short matter on redirect. Mr. Webber, in your 36 years in Tarrant County, have you ever known it to happen that the candidate who runs well the first time doesn't do quite as well the second time around? Do you understand the question? In other words, have you ever known people to make a good showing the first time out, only to sort of fall by the wayside in subsequent attempts to be elected to an office?

A. I don't recall any specific instance, but I think that could be the case.

Q. One final point. You said you got about $1,400 in contributions from the black community?

A. Yes.

Q. Would you attribute that small in comparison to the total amount of money you took to the communities lack of interest in your candidacy or to the communities economic straits?

A. I think I could not attribute it to their lack of interest because I think that in checking the voting habits and voting records in the past we will find that the interest in my campaign brought out more black voters than had ever

been brought out in Tarrant County even in a Presidential race. So I would say it was a matter of economic straits.

MR. BONNER: I have nothing further.

JUDGE GOLDBERG: I have one question.

EXAMINATION,

By Judge Goldberg:

Q. Did you have occasion at any time to approach the so-called "Seventh Street Organization"?

A. Yes, sir, I did.

Q. In the interest of your candidacy?

A. Yes, sir.

Q. Tell us about it.

A. Well, after the primary, we decided to go downtown and try to line up some support because we felt that maybe some of the people who had supported the other two candidates in my race who were from downtown would support me. And I was instrumental in getting in and talking with people. And they indicated an interest in my race. And they said they would vote for me. But I didn't get any financial support. I'll tell the Court that.

Q. Did you ask them for any?

A. Yes, I asked them for financial support, Your Honor, but I didn't get any. In one instance we were called to debate before the Junior Bar Association in Tarrant County

along with my opponent. He rufused to debate with me, saying that he had everything to lose and I had everything to gain. So he refused to debate with me before the Junior Bar. I went ahead and gave a speech. And at the conclusion of my speech, the bar went on record as saying they would support me.

Q. But the contact that you made with the so-called Seventh Street Organization, you are just talking about individuals that you went to see? You didn't go before any committee or anything that would be quasi-organized in any manner, shape or form?

A. No, Your Honor, I didn't.

JUDGE GOLDBERG: That's all.

MR. YORK: I have nothing further, Your Honor.

(Witness excused.)

MR. BONNER: If it please the Court, we would like to call another witness subject to Mr. York's standing objection, to be examined by our associate, Mr. Martinez.

CARLOS PUENTE,

called as a witness by Plaintiff Gaskin, was duly sworn and testified as follows:

DIRECT EXAMINATION,

By Mr. Martinez:

Q. Will you state your name for the record, please.

A. Carlos Puente.

Q. Where do you reside?

A. 1715 Lincoln in Ft. Worth.

Q. Which census track is that?

A. Census track 8.

Q. How long have you resided there?

A. Approximately a year-and-a-half.

Q. Would you state your education for the record.

A. I received a BA degree in Political Science from North Texas State in August 1971. I just received my Masters Degree in Urban Affairs in Arlington.

Q. Within that Masters Degree, did that provide you with any specialty work?

A. Yes. It is a multi-disciplinary field. It involves economic, political science, city planning, demographic information, etc.

Q. You do have demographic experience?

A. Yes, I do.

Q. What is your present occupation?

A. I presently work as a drug Counselor in the Outreach Program the barrios of Ft. Worth.

Q. That provides you with substantial community exposure?

A. Yes, it does. My job description is to seek out and find drug abuse and drug addiction problems in the barrios.

Q. What job did you have prior to that?

A. Prior to that, I was in the city Manager's Office in Weatherford, Texas for a year although I did live in Ft. Worth. And the year prior to that, I was with the City Planning Department for the city of Ft. Worth for one year.

Q. What did you do while you were there?

A. I was a research assistant with the city Planning Department.

Q. Of course you worked with demographic material there too?

A. Yes, I did.

Q. Okay. You heard Mrs. Fischer testify about this map, did you not?

A. Yes.

Q. I believe it's Plaintiff's Exhibit 1a. Within that, could you tell us some information about census tracks 50.01, 201 and 202 that she did not relate to the Court.

A. Yes, I might point out that there is a correction that should be made on the Legislative Research Boards' map which we use as our base map. It involves Census Tracks 202 and I believe 102. There is a line that is different on an official U. S. Census map from that which is on the Legislative map.

MR. MARTINEZ: I would like to submit the U. S. Census map, official, listed as Plaintiff-intervenor Gaskins

Exhibit Number 1. I have shown it to the Defendants and the other intervenors and they have no objection as I understand it.

JUDGE GOLDBERG: When did you show it to them?

MR. MARTINEZ: As we discovered the error, Your Honor. It would be unnecessary to make this statement except that they have an error on the map.

JUDGE GOLDBERG: Go ahead.

MR. MARTINEZ: We would like to introduce that into evidence.

Q. (By Mr. Martinez:) Now, can you give us the demographic information relative to Mexican-Americans in that area?

A. In relation to census track 50.01, there is a Mexican-American population of 17.6 percent or 966 Spanish surnamed or Spanish language speaking living in that census track.

In 201, the percentage of Mexican-Americans is 20.2 percent or 614 people.

In 202, that part which was left out on the map there, there is a percentage of 39.3 Spanish surnames, Spanish language speaking or 1,946 people.

Q. So, in fact, there are other census tracks that have more than seven percent Mexican-Americans in them?

A. Yes, there are.

Q. That would provide voting strength or whatever.

A. That's correct.

Q. With relation to census track number 8, what is the percentage of Mexican-Americans there? I believe it's 8.

A. That's the track I live in. And it is 33.6 percent Mexican-Americans.

Q. Maybe I picked the wrong one. I want the one just above it. I want census track number 4.

A. Census track number 4 there are 27.7 percent Mexican-Americans residing there, or 1,610 people.

Q. So, within a fairly close proximity, there is a substantial concentration of Mexican-Americans in the area?

A. Yes, there is. And being familiar like I say with the area, and more or less walking in the area and visiting high schools on my job, I am familiar that there are some identifiable bodies within that entire north side area that go by different names. For instance, in census track 50.01 there is Diamond Hill. There is Laloma. All of these bodies are contiguous with each other, and as a whole they do represent the north side of Ft. Worth.

Q. Okay. So, granted that this map, this non-plan as we have described, this feasibility plan, assuming that that was a possible, that there are many different ways of drawing this map, as a matter of fact, there are ways to draw

the map to better maximize minority representation?

A. I believe that's true.

Q. Now, within the brown community, the Mexican-American community--and by the way, would you characterize your ethnic background for me?

A. Mexican-American.

Q. Mexican-American. Within the Mexican-American community, is it conceivable that they would vote for other minorities if they were placed in single member districts together with other minorities?

A. Yes, I think it's very conceivable.

Q. And do they have communities of interest that would make voting together a problem?

A. Yes, I think there are a number of communities of interest of both minority communities in addition to the ethnic factor.

Q. Okay, would you state those factors to the Court that you think would be relevant and would bring the voting strength together.

A. Well, in terms of police behavior, I believe that's one. In terms of local health services. In terms of housing patterns or housing discrimination, job discrimination. In terms of education, of financial aid to education by the State. The whole area has a common interest between the black and brown communities or the minorities communities as a whole.

Q. Well, do you think it would be proper, in your opinion by maximizing the minority representations in the area that some of these things might receive some attention?

A. Yes, sir, I do.

MR. MARTINEZ: We pass the witness, Your Honor.

MR. YORK: We have no questions, Your Honor.

JUDGE GOLDBERG: Are we through with Tarrant County now?

MR. BONNER: I believe so, Your Honor. May it please the Court, we have no more live witnesses to offer. However, Professor Cotrell has been engaged by all of the Plaintiffs to act as a statewide expert. And subject to the Court's approval, subject to there being no objection from the Defendant, we would like to reserve the right to question him when he comes on with regard to Tarrant County.

JUDGE GOLDBERG: That's perfectly all right. You don't object to that, do you, Mr. York?

MR. YORK: No, sir. I think we earlier urged upon the Court that we thought each county should be taken county by county, but that's been ruled upon and we have no objection to this procedure.

MR. BONNER: As a final point Your Honor from Plaintiff Gaskin, we also ask for Attorney's fees. However, in the interest of brevity, we would request that we be allowed to submit a written statement or stipulation as to the time

actually spent in preparation of the case instead of live testimony.

JUDGE GOLDBERG: You had better prepare such a stipulation and present it to Counsel. We will hear from you on that before we terminate the trial.

MR. BONNER: Yes, that's perfectly all right.

JUDGE GOLDBERG: Now, are we finally through with Tarrant County?

MR. YORK: I hate to rise.

JUDGE GOLDBERG: I hate to see you.

MR. YORK: We have Mr. Gib Lewis from Tarrant County that we would like to call.

JUDGE GOLDBERG: Proceed.

GIBSON LEWIS,

called as a witness by the Defendants, was duly sworn and testified as follows:

DIRECT EXAMINATION,

By Mr. York:

Q. Would you give the Court your full name, please sir.

A. Gibson Lewis. I go by Gib.

Q. And you are presently a State Representative from Tarrant County?

A. Yes, sir.

Q. Which place did you run for?

A. Place 4, District 32. Place 4.

Q. What had been your background, just very briefly, before you ran for this political office?

A. Basically it would be involving civic activities. I served a term on the City Council of River Oaks. Just civic involvement.

Q. And what is your business or occupation? I assume that you are not a full time legislator?

A. No, sir. I own the Lewis Staple & Label Products. And I am involved in several other businesses.

Q. All right. When did you first get elected to the Legislature, please?

A. In the 62nd session.

Q. And that would have been the session which began in Austin what year?

A. It would be '69 I believe it was.

Q. All right. Were you opposed in that election?

A. Yes, sir.

Q. By an incumbent or by--

A. By an incumbent. Right, sir.

Q. Who was the incumbent?

A. Bob Burnett.

Q. All right. In the primary, were there any blacks or chicanos?

A. In our particular race?

Q. In your primary?

A. No, just myself and Mr. Burnett.

Q. All right. Then did you have a Republican opponent?

A. (Short pause.) Yes, I did.

MR. GEORGE: I don't know whether to object to that answer or not, Your Honor.

A. I was trying to recall his name.

Q. Did you have opposition the next time you ran?

A. Yes, sir.

Q. Were there blacks, browns or whatever in that race?

A. No.

Q. Then did you have Republican opposition this last time?

A. No, sir.

Q. When you decided to run for the legislature from Tarrant County, who did you go to see or who came to see you? How did it come about that you deciced to run?

A. Probably a fellow Councilman of mine that I served with on the City Council, a local service station operator and my next door neighbor were probably the three dominating factors as far as talking me into running.

Q. Were any of these people card carrying Seventh Street Gang members?

A. No, sir, they sure weren't.

Q. What is the situation? You have heard some discussion here in the Courtroom this morning about the Seventh Street Group or whatever it is. What is it that the people are talking about when they talk about the Seventh Street Group or the downtown bunch?

A. I feel it is probably a mythical group because I have never had anyone who has told me about their membership in the Seventh Street Group. I've never been approached by them. I have never solicited funds from anyone that was classified as a member of the Seventh Street Group. And I'd like to find somebody who knows who they are, what names that they consist of. I have heard like this Court has heard today about the Seventh Street click, but I know myself personally I have never seen a slate card or any kind of group from one so-called Seventh Street, or whether or not they represented any particular governmental entity or anything like that. To me, like I say, if they exist, I don't know the membership of their existence.

Q. Seventh Street I assume is one of the downtown streets in Ft. Worth?

A. It is the downtown area. It is the primary business area in Ft. Worth.

Q. All right. What about the situation with regard to the labor group? Is that more clearly organized or defined in your mind?

A. Oh yes, sir. Yes, sir.

Q. Let me ask you about one thing. This reporter is going to shoot both of us if we talk at the same time because he can't get it down when both of us are talking at once.

What is the difference or what is the organization as far as the Labor political arm is concerned?

A. The different unions or labor organizations have a different type of organization. I think one is called CAPS. Each basic labor organization has a committee that becomes involved in local matters. They do a good job of it I think.

Q. Is that a fairly clearly defined thing in the sense of it being an organization that has got a committee that you could find out who is on the committee and it has got a Chairman of the committee that one can find out about?

A. Yes, sir. They have a screening committee that screens all candidates. And they choose what candidates they select from this group.

Q. What is your impression on the organization point for minute of the PASO organization? Is that a vague shadowy thing that nobody knows anything about?

A. No, sir. It is a very prominant Mexican-American organization in Tarrant County that is concerned with the needs of the Mexican-American community. And they screen candidates also. All candidates are invited to their screening committee session I guess you would say and they are given a

chance to express themselves and be cross examined by members of the PASO group.

A. All right. Now, a statement has been made in Tarrant County that it is pretty well necessary to have either labor behind you or what you think of as business behind you if you expect to win. Do you agree with that or do you not agree with it?

A. I would say very much. I have seen Mrs. Andujar who is a woman Republican. She was elected at the general election to a Senatorial seat. She didn't have a labor, industrial or business endorsement or anybody's endorsement that I know of except herself and a few fellow Republicans and they are hard workers. I know myself when I first filed and ran, I had the support of labor and several of the other organized organizations I guess you would say. And it is benefiting to know that your purpose, in what you believe in is what they believe in. I think this possibly has more of a heart warming effect than anything else to know that you have got that support. And sure, they are going to have some effect. But at the same time, I don't think this is the definite basic making policy as far as an election is concerned. It takes a lot of going to see people and shaking a lot of people's hands and telling them what you stand for and what you feel State Government should be.

Q. I take it that in most races, maybe some of the time

this is not true, but a great deal of the time at least that the labor group would be at odds with the business group in the sense that they would not both be endorsing the same candidate, or is that true quite often?

A. I'm sure its true.

Q. How has that battle come out? Has it always come out on labor's side or has it always come out on the business side or is it kind of just a general free for all fight?

A. I would say it is pretty much of a free for all fight. I wouldn't say that labor dominates and I wouldn't say that business dominates.

Q. You are of course 30 miles from Dallas?

A. Yes, sir.

Q. And I know you have read this Court's opinion relating to Dallas. First of all, are you familiar with the slating procedure as it at least was used and perhaps still is used in Dallas County?

A. Yes, sir.

Q. Is there anything top, side or bottom in Ft. Worth that resembles that in your view?

A. You mean as far as they call the Good Government League or whatever?

Q. Right.

A. No, I don't feel there is anything in Tarrant County that even resembles it one way or the other.

Q. Is there a group of kingmakers or power click or coalition or whatever it is that has got a strangle hold on who gets on the ballot in Tarrant County or not?

A. No, sir, I don't feel there is. I ran in two elections. If they exist, they certainly haven't approached me and I haven't approached them.

Q. All right. Now, in your campaigns, have you and did you seek support in the black community?

A. Yes.

Q. By what means?

A. By contacting, by talking to some of the leaders in the black community, what I considered to be the leaders in the black community to find out what some of their problems are and trying to respond to what I possibly could do. I appeared wherever they wanted me to go. Anytime someone would ask me to be there or wanted me to present something. I worked these precincts, the black precincts very hard as a matter of fact. I appeared at several churches and civic organizations throughout the black community. I did in the last two elections.

Q. Did you get an invitation at lunch today to appear at one of those groups?

A. Yes, sir. R. C. Johnson, he asked me to come out to see him sometime. He is the President of the Precinct workers. I advised him that I would.

Q. Have you spoken to that particular group before or visited with them?

A. Yes, I have spoken to the precinct workers. Some of the finest friends I have are precinct workers.

Q. All right. Do you have an opinion that you could share with the Court as to why people generally appear to be more apathetic about voting in the State Legislative races than they do--we know statistically that fewer people vote in state elections than they do in Presidential elections and dramatically less. I'm not talking about blacks or whites or browns, but do you have any opinion about why people generally are somewhat apathetic about those races?

A. The question is there and I have asked myself that question. This is not a true conviction of what I believe, I'm not saying this is what I sincerely am convinced of, but a lot of people will say "Well, politicians are all crooked and I want to get away from it." A lot of people say "I wouldn't vote for you because I think all politicians are crooks." This is their feeling towards the legislature. I think of course in a Presidential race there is more interest than there is in legislative races probably.

Q. Is it true that part of the problem of the apathy in that area is perhaps a general misunderstanding or a lack of understanding about what it is that a representative in a district does in Austin?

A. I think so because I have people many times say "Why aren't you in Washington?" And "How are things up in Washington?" "What are you doing home?" "I thought Congress was still in session." I have this happen to me daily by people who I consider very learned and who I thought knew the difference between a State Legislator and a Senator in Congress.

Q. Do you have an opinion on whether or not single member districts just by themselves without anything more would be likely to particularly decrease that apathy on the voters?

A. I don't feel so. Of course my personal opinion toward multi-members--my stand is not endorsing single member or endorsing multi-member. I consider the fallacy of each. And the way I look at it, each person who has introduced a proposal or plan has done so from somewhat of a selfish motive. This group, they want to introduce their single member district proposal because they feel they can elect one from that particular group. And this group over here introduce a plan because they think they can gain more strength in that particular area. I think that this is a fallacy that does arise through going into a situation where they are in a a single member district. I think that each member of the legislature should be responsible to the people that he serves in the County. I don't like to polarize my

self in a particular district or particular area of the County where I don't feel like I have the opportunity to represent the people on the other side of the town. I have the same common interest as far as sharing the same city, the Courthouse, the same facilities in that town. And I don't think I should isolate myself out of one particular district and just be concerned with that district. I don't think you are doing what you should do being a representative of the whole county and the people in the whole county and the people of the state.

Q. We have talked about polarization in the context of Tarrant County. We have heard that term used. From your experience in the Legislature, have you seen any what we might call polarization?

A. Yes.

Q. For instance in the delegation from the single member district counties?

A. I think very definately this past session polarization as far as members from some of the single member districts and largely the metropolitan counties. I think Harris County is a pretty obvious example as well as some of the other major counties that went single member. I've seen representatives that made philosophical or political decisions because another group was saying that the blacks would come with a bill or proposal and the conservatives or the so called conservatives or liberals, some of the other groups would be

against it. What I'm saying is that say the Republicans offer a bill, the blacks would vote against it just because it was offered by the Republicans, or the liberals would vote against it just because it was introduced by the Republicans.

Q. Referring if I might for a moment to the feasibility study that has been discussed, who, among the present 9 member delegations, does not get paired with an incumbent under that study?

A. Well, in reference to some earlier testimony, I say Mr. Willis and Mrs. Miller, Chris Miller.

Q. Does Chris Miller live in a poor getto type area?

A. No, sir. She certainly doesn't.

Q. How would you characterize the area that she lives in?

A. I would say the upper income class.

Q. Do you think it's just a matter of happenstance that Chris Miller and Mr. Willis were the only ones who were not paired with incumbents on that chart, or would you have to work at it to get to that point?

A. Well, of course I've got my own personal feelings about that particular map. Personally, I feel it was drawn to save two house members districts, to keep from pitting them against anybody else. Now that's my personal view. I think it was an obvious attempt to preserve two incumbents and pair all other incumbents.

Q. Okay. Thank you, Mr. Lewis. Let me ask you just right quick about a list of bills. There are only, if your Honor please, about 10 of them. I will try to do it in a very short hand fashion. You have looked at a list, in fact a little while ago to speed it up I asked you to look at several bills, which bills themselves and the votes will be put in evidence.

A. Yes.

Q. But House Bill 3 relating to the requirement that meetings of Governmental bodies be open to the public, how did you vote on that?

A. I voted for it.

MR. RICHARDS: May it please the Court, we object on behalf of the several Plaintiffs that we represent. We think that they are not bills necessarily addressed to particularize the minority groups that we represent. And by sitting silent, we don't mean to acquiesce in any inference that these bills are reflected--

JUDGE GOLDBERG: You will have ample opportunity to cross examine him about anything you want to about these bills, Mr. Richards.

MR. RICHARDS: My point being I want to get my objection in at this stage.

JUDGE GOLDBERG: Overrule the objection.

Q. (By Mr. York:) Are you aware of how the browns

and blacks in the Legislature generally voted on that bill?

A. They voted for it I'm sure. I might point out, Mr. York, that I myself took a survey of how myself and several of the other members of the Tarrant County delegation voted in reference to the black members of the House of Representatives. And surprisingly, we all voted alike, right down on every basic issue.

Q. This is not marked and not in evidence, but are you referring to the study that you did relating to about, it looks like about 15 or 20 bills?

A. Yes. My main concern, I had always considered myself to be a representative of the people and representing everyone on every issue. And I wanted to see if I was being charged with discrimination where I was discriminating, where and when and for what reason. I wanted to clear up my own mind and that's the reason I made this survey myself.

Q. Looking through that list without going through each one, there are about 15 different bills, did you select them first of all as issues that would concern the black and brown communities?

A. Not really. I took just basic legislative bills that were the basic bills introduced. In fact, I instructed my secretary without her knowledge of what the survey was even for. I wanted to take all of the basic bills and see what my voting record had been in comparison with the others.

MR. GLADDEN: If the Court please, we'd like to object to any reference to this exhibit until we have an opportunity to examine it to see the bills that they have made reference to. While I appreciate the fact that the exhibit was not tendered to us so that we could have an opportunity to see what the basic bills considered, what he considered to be basic, we object to any reference to any item which is not in evidence and not tendered for our examination in order to cross examine the witness relative to those matters.

MR. YORK: Well, we'll just go down them point by point then.

Q. (By Mr. York:) House Bill 1 relating to the establishment of an ethics commission, how did you vote on that?

A. I voted for it.

Q. How did Eddie Bernice Johnson, Paul Ragsdale, Symphonia Thompson, Micky Leland, G. J. Sutton, Chris Miller and Doyle Willis vote?

A. Those votes are there, and I would hate to-- I think they all voted for it or were absent. Eddie Bernice Johnson from Dallas voted no. Paul Ragsdale voted no. Symphonia Thompson voted no. Micky Leland was absent. G. J. Sutton from Bexar County voted no. Chris Miller was absent. Doyle Willis was absent. I was the only one who voted yes on that particular bill.

Q. What is the next bill? We won't go through that entire list, but just pick out three or four that seem appropriate.

A. House Bill Number 2, we had as I recall 10 so called reform measures that were introduced. House Bill Number 2 related to activity of persons engaged in legislation or administrative action. And all of the members voted yes on House Bill Number 2.

House Bill Number 3, all members in question here voted yes.

House Bill Number 4 all voted yes.

MR. GLADDEN: If the Court please, I would like for him to identify the nature of the legislation.

MR. YORK: Mr. Gladden is somewhat unfamiliar with this legislative process.

Q. House Bill Number 3 was relating to the requirement that meetings of Governmental bodies be open to the public.

House Bill 4 related to

House Bill 5 related to the authority of certain legislative congressmen. And they all voted yes except Symphonia Thompson who was absent that day.

House Bill 6 relates to the accessibility of information

That was for opening the records.

Q. Let me ask you and to short cut it a little bit, do you have house Bill 147 on your list there?

A. No, I don't. I co-sponsored House Bill 147.

Q. Was that the bill relating to supplemental aid for adult education?

A. Yes, it was.

Q. Did you sponsor that?

A. I co-sponsored it. I might point out that I co-sponsored the bilingual education bill for the last two sessions with Mr. Carlos Truan.

Q. Mr. Truan of Nueces County?

A. Yes. This was the first time it had been introduced to my knowledge. I was one of the co-sponsors of it. And this past year I also co-sponsored it.

JUDGE JUSTICE: What exactly does this bill provide for?

THE WITNESS: It is a bilingual education bill.

JUDGE JUSTICE: What specific portion of this vast field does it cover?

THE WITNESS: Basically, it's the language difficulty that has been experienced in the Mexican-American schools, I mean in the public schools as far as the Mexican-American population. In other words, it is giving bilingual studies in both languages.

JUDGE JUSTICE: What specific provision is made

in the bill? You are the author of it.

THE WITNESS: I don't follow you, sir.

JUDGE JUSTICE: Well, what provisions does it make?

THE WITNESS: It makes provision for State funds to be spent in this area.

JUDGE JUSTICE: What grades?

THE WITNESS: What grades?

JUDGE JUSTICE: Yes.

THE WITNESS: The elementary grades.

JUDGE JUSTICE: Only?

THE WITNESS: Well, there is an escalated plan involved in it to where it can--well, it's for the elementary grades and also we have an adult grade where they want to cut off--

JUDGE JUSTICE: How much funds are involved?

THE WITNESS: I don't know at this point. I don't know, sir.

Q. (By Mr. York:) Would the funding be a part of the appropriation act?

A. Yes, the funds are to be a part of the appropriation act. I did have those figures, but I would hate to make a guesstimate on it.

Q. All right. How about House Bill 166 relating to the right of an injured employee to select a licensed physician

or chiropractor of his choice?

A. I voted for that bill.

Q. How did the black representatives that we mentioned a moment ago from the surrounding counties or the other counties in the state vote on that bill?

A. Let's see, we all voted yes on that bill.

Q. All right. What about House Bill 417?

A. 417?

Q. Accepted trade practices and consumer protection.

A. I don't have that bill listed here.

Q. The record shows that the only one from Tarrant County voting against was Mr. Charlie Evans?

A. Yes. I recall I voted for it.

Q. All right. Do you recall House Bill 750 relating to the posting of prescription prices for drugs?

A. Yes.

Q. How did you vote on it?

A. I voted yes, in favor of it.

Q. How did the blacks and the browns around the state vote?

A. I'm sure they all voted for it because Mr. Micky Leland who is a black from Harris County was the sponsor of the bill.

Q. How about House Bill 331 setting a penalty for conducting a child care center or a child placing agency without

a license?

A. I voted for that. That was 331.

Q. Yes sir.

A. All members in question voted yes, in favor of that bill.

Q. How about Senate Bill 506 relating to the establishment of a crime and narcotics education program in the schools?

A. I don't have that one listed. I don't recall how I voted on it myself, I'll be honest with you.

Q. All right. The records otherwise indicate that no one from Tarrant County voted against it.

A. Possibly. I don't recall.

Q. One last question or last couple of questions, Mr. Lewis. Of course we all know that the constitutional convention is coming up in January. Do you presently--oh, I started to ask you about whether you were going to run again, but you may not have told anybody about that yet. Don't tell us if you don't want to.

A. No.

Q. Let me ask you in the abstract. Would, in your view, an incumbent or any incumbent were to be told that in January or December or whenever that he would have to run out of a new district that would be carved out of Tarrant County but it would be a new district which would not be known to him

now, what if any difficulty would that pose to the members if he had to file and run under a new single member district, keeping in mind that the constitutional convention is set for January?

A. Of course any changes made in the present structure is going to be an extreme handicap to any of the incumbents this coming year because the incumbents of course will be here sitting as a constitutional convention, but I don't see where going to a single member--sure, it's going to cause a lot of handicaps because it is something new, you are going to have to find out where your boundaries are, who you are talking to, and it's going to be an extremely hard thing to do. Of course, if you do your job like you should, I think most incumbents probably wouldn't have any trouble running from a single member district. But at the same time, sure, it's going to reflect a lot of hardship and difficulty as far as finding the boundary lines and finding the geographical makeup, the minority makeup and anything else in the district, knowing who you really represent and what it's going to mean.

Q. For the record, is the matter of single member districts one of the subjects to be taken up at the constitutional convention?

A. Yes. In fact, it was taken up or it was acted upon three seperate times this past legislature, this last session of the legislature. It was introduced and of course

as the legislative process stands, the 2500 bills that get introduced, of course you can't get all of them up to take action on them. Of course what we try to do--Of course I introduced single member districts at the time myself because I felt that the legislature has pretty much been instructed or given an indication the way they should go, that is, to single member districts. And the motion was made on three separate occasions to bring single member districts up for action on the house floor. But it requires a two-thirds vote and it fell short by only a couple of votes each time it was brought up. And the reason it fell short was those--A lot of single member districts at this time felt that it would have some effect on them, so they were reluctant to vote for the plan. Of course we had those who felt that we should let the Federal Courts do it and perhaps things would be better as far as they were concerned. There is a lot of interworkings in this thing, political workings on the thing that I wouldn't care to go into because it might reflect on some of the people who are sitting right here in this room. I wouldn't want to intimidate them one way or the other.

MR. YORK: Thank you, Mr. Lewis.

CROSS EXAMINATION,

By Mr. Gladden:

Q. If it please the Court, Don Gladden representing

Escalante, et al. Gib, did you attend the cocktail party just this last week in connection with honoring Representative Bill Hillard from our district?

A. No, sir, I did not.

Q. You did not?

A. No, sir.

Q. And are you aware of some of the people that may have attended?

A. No, sir. I heard it was well attended, but I didn't ask who was there or nothing.

Q. Do you suppose if you had gone you might have met some of the Seventh Street crowd?

A. Well possibly. If there had been some of Seventh Street people there, I'm sure I missed them.

Q. All right. In connection with these district lines, the lines that have been developed here by earlier testimony, I would like to kind of correct a little bit of the testimony as to who was paired up with whom. I believe the testimony was--

MR. GLADDEN: May I approach the map, Your Honor?

JUDGE GOLDBERG: Mr. Gladden, I don't want to cut you off, but this exhibit was introduced as I understand it for the purpose of showing that there is one way of doing it. It doesn't represent as I understand it anybody's final judgment as to the way it ought to be.

MR. GLADDEN: This is true. I would like to develop very briefly an error that was committed this morning as to who was paired with whom.

JUDGE GOLDBERG: Go ahead. I think it almost borders on the irrelevant as far as I'm concerned. Go ahead.

Q. (By Mr. Gladden:) As to 32-5 up there, Charles Evans is not paired, is that not correct?

A. Yes. You are right.

Q. And as to 32-7, Dave Finney is not paired.

A. David Finney and myself, yes.

Q. And Chris Miller. And so the actual pairing is these three and these two.

A. And these two.

Q. Five are paired and four are not, is that correct.

A. Right.

Q. All right. Now then, in connection with when you were first elected, actually you were elected in 1970 and first served in 1971, is that right?

A. Yes.

Q. Instead of '69. All right. And you have testified that you are in favor of single member districts, is that correct?

A. Yes. Let me restate that, if I may because I can see the benefits of single member districts at the same time I can see the fallacies of single member districts. And I

think basically the reason that I'm testifying here today is I feel that there should be constitutional guidelines set out by the constitution that the legislature should redistrict and that they should do it as they have been instructed to. And of course as far as single member districts are concerned, as everyone is concerned, they feel and the delegations we should go single member districts. Therefore, I feel that that's what should come about.

Q. Mr. Lewis, in October of 1971 at the time that the Legislative Redistricting Board was meeting, you told a Ft. Worth Star Telegram reporter that you favored multi-member districts, felt that the legislative Redistricting Board would adopt a multi-member district because it is in the best interest of Texas. Nobody wants single member districts but people from Harris and Dallas Counties.

Do you remember making that statement?

A. I sure did.

Q. Okay. In June of 1972, you actually had to move in to this multi-member district and move out of a single member district in order to get into District 32.

A. I had to change my address in the multi-member district.

Q. All right. In June of 1973, following the Supreme Court's reversal in part of the original case, you told a newspaper reporter "I don't look for Tarrant County to go to

single member districts for the next 10 years until we have a new census count." Isn't that correct?

A. That's true. In reference to the Supreme Court ruling, I felt as this was the intent of the Supreme Court ruling was to leave the legislative redistricting lines as they were. That's the way I interpreted the ruling. This is why I made that statement because they asked me what I felt about it. I said in reference to the Supreme Court ruling as it stands right now, they held Harris County, Bexar County and Dallas County attacked, and felt that Travis County and Tarrant County and the rest of the multi-member districts would stay the same as they were. This was my own opinion and the opinion of many others.

Q. And it's your opinion also that unless there is some Federal Court action that there won't be a redistricting plan adopted by the Legislature for single member districts in Tarrant County.

A. I think there will be a redistricting plan introduced. I think the legislative process, those who instigate the single member districts and will have their day in the Legislative Halls. And it is conceivable to everybody concerned, I think it would be adopted. If not, I think it will be defeated just like all other bills in the legislature are concerned.

Q. Mr. Lewis, on June the 18th, 1973 when you said

"I don't look for Tarrant County to go single member district for the next 10 years until we have a new census count," were you expressing an opinion as to what the legislature would do?

A. I was expressing the consensus of what I read out of the Supreme Court ruling.

Q. And what the Legislature would do in response to it, is that correct?

A. Not necessarily. I'm just saying that my comment was strictly to their decision at that time.

Q. Mr. Lewis, you were supported both in 1970 and 1972 by the organized labor liberal slate, were you not?

A. Yes, I was.

Q. All right. And your first race against the incumbent was a very close race, was it not?

A. Yes, it was.

Q. All right. Do you feel that you would have had any meaningful chance to have gotten elected had you not had the labor-liberal-black-brown support?

A. They definately I will say elected me, if you want to get down to the basics of it. Yes, without their support as close as my race was, without the support they gave me I would have been defeated.

Q. Now, you mentioned Mrs. Andujar. She actually ran in a senatorial district that encompassed only about half

of District 32, is that correct?

A. Yes, sir.

Q. She does not run district wide as far as District 32 is concerned?

A. No, sir.

Q. All right. I would like to ask you, Mr. Lewis, do you feel that it's almost essential for a candidate from District 32 to have a probability of success within the district to receive the support or endorsement of either the labor-liberal-black community or the business community?

A. Restate that. Whether or not his success depends upon whether or not he has the support of one or the other?

Q. Yes.

A. I don't know. I'll say no to that question. I'll say this, that all of the support you can get certainly helps. I don't know of any politician that is running for public office that has ever turned down any support. And I say all of it helps. Now, how much it helps, I don't know because I know a lot of times I have had people say "I'm going to vote against you because you are endorsed by labor", and at the same time I have heard people say "I'm going to vote for you because you are endorsed by labor." They can vote for you or against you. Who knows what the effect can be. You can win or lose just as easy.

Q. Mr. Lewis, in that connection, do you recall when

the last person elected to the legislature that was not supported by either the business community or the labor community in Tarrant County?

A. I feel Mrs. Andujar is a good example.

Q. You testified that her senate seat is just only about half of that. Can you tell me any member of the legislature?

A. I don't know of a Legislator that doesn't have one or the other support. I'm just trying to recall back.

Q. That's what I've asked you to do.

A. I would venture to say that there have been. As far as particular individuals now, I don't know any particular individauls that have won. I'm sure you know of some of those who have had labor support and did not win. And at the same time, those that anyone else would endorse. I know there have been instances of that. We have spoken of Bill Hillard. I don't know if Bill Hillard had labor support this year or not, but he won.

Q. Can you think of anyone who did not have either the business community support or labor's support that were elected to the House of Representatives since you've been keeping up with the legislature, Mr. Lewis?

A. I don't know what you would call business support or labor support. I know what labor support is, but I don't

know. I'm a business man and I don't know what business support is because most business men vote Republican. So, I don't rely on business--being a Democrat, I don't rely on business for support as much as you might think a candidate should.

Q. Most of those business men vote in the Democratic primary from Tarrant County though, don't they?

A. I don't necessarily think they do. I think you will find the same percentage of vote in the general election. I think you have more active democrats than Republicans in Tarrant County. I think that's it.

Q. Mr. Lewis, as to representation of the ethnic minorities, you have testified that you co-sponsored Mr. Truan's bill on bilingual education.

A. Yes.

Q. How many committee hearings did you attend in connection with that legislation?

A. I attended three.

Q. All right. Now, I'll ask you whether or not you prepared any amendments to or assisted in the drafting of that legislation?

A. No, Mr. Truan had pretty well drafted the bill and it was pretty concrete when we introduced it. He approached me, he said "will you co-sponsor this bill?" I said if it's a good bill I will certainly co-sponsor it with you. I worked

the floor and I worked the committee members for it's passage.

Q. All right, did you speak on behalf of the bill on the floor?

A. No, I did not. None except Mr. Truan himself spoke for the bill.

Q. That bill passed by a margin of 130 to 8?

A. The first time, it was defeated soundly.

Q. All right. In this last session of the legislature?

A. In the 63rd session, they did pass it.

Q. By a margin of about 130 to 8, did they not?

A. I think so. It was very well received.

Q. How did you vote on the resolution relative to the Martin Luther King Birthday?

A. I think you will find I voted against the resolution the same as you will find me regularly voting against any recognition of birthdays that was introduced.

Q. As a State holiday?

A. Right.

Q. Can you recall what other state holidays you voted against in this last session?

A. Oh, I believe there were about three. I don't recall them right now. But when you start recognizing State holidays, you are opening up as the expression goes a can of worms.

Q. Did you vote for the one creating the State holiday

on Lyndon Johnson's birthday?

A. Yes, I did.

MR. GLADDEN: I pass the witness. I have no further questions.

CROSS EXAMINATION,

By Mr. George:

Q. Jim George, counsel for the Republican Plaintiffs, Doctor Willeford, intervenors Sears and Holliday in Tarrant County.

Mr. Lewis, I have a brief list right quick. Did you introduce a bill dealing with equal open housing legislation in the last session of the Legislature?

A. No, I did not.

Q. Did you introduce a bill dealing with the integration of the public schools?

A. No, sir, I don't recall those two bills.

Q. You didn't introduce them?

A. I don't recall those bills being introduced during this past session.

Q. Did you introduce a bill dealing with the employment discrimination, that is, discrimination on the basis of race by employers of less than 15 employees?

A. No, sir.

Q. You did not?

A. No sir.

Q. Did you introduce a bill dealing with access to public facilities not engaged in interstate commerce?

A. No, sir.

Q. You did not?

A. I don't recall that bill being introduced either, sir.

Q. Two final questions. Did you introduce a bill dealing with the establishment of a drug abuse treatment facility in Tarrant County?

A. No, sir, I didn't. I think you will find, Mr. George, most of those bills are handed down by Federal action. One reason they are not introduced on the local state level.

Q. The scope of the Federal legislation, the Court is well aware of.

A. Well, Federal legislation supersedes State legislation. And a lot of these bills have been handled on the Federal level. I think it's irrelevant to what we're trying to get at.

Q. Thank you for your opinion. Finally, you said none of these bills were introduced by anybody.

A. No, sir.

Q. Nobody from the Tarrant County delegation?

A. To my knowledge they were not, sir.

MR. GEORGE: That's all I have to ask.

EXAMINATION,

By Judge Wood:

Q. I believe Mr. Sifford testified that a person had a big advantage and could hardly be elected to the Senate unless in the absense of prior public identification or prior political exposure plus support from labor and/or the business community. Now, do you recall that?

A. Yes, I recall.

Q. Mrs. Betty Andujar, she is a Republican Senator?

A. Yes, sir.

Q. Did she have any prior public identification or prior political exposure?

A. To my knowledge, very little, if any.

Q. I believe you testified here that she had no support from labor in the general election, but Mrs. Fischer thought, while she didn't remember, she thought perhaps she might have.

A. She wasn't, as we have said here by the word endorsement, she wasn't endorsed by the labor leadership.

Q. Well, who was her opponent?

A. Mike Montrive.

Q. All right. And was he a Democratic candidate?

A. He was a Democratic candidate who served in the Legislature.

Q. And he was the incumbent?

A. Yes, sir.

Q. Senator?

A. A House member.

Q. And who was his opponent in the primary, his democratic opponent?

A. Walter Stiner.

Q. And whose support did those two candidates have?

A. Mr. Stiner had the labor support I think in the primary.

Q. And Mrs. Andujar won this election without the support of either the business community or the labor community and with no prior political exposure.

A. Yes, sir.

Q. One other thing. None of the Judges could remember, how big are the senatorial districts, what is the population? We have all forgotten. We know that the representatives of the single member districts are 75,000. In the case before the constitution, what is the population of the senatorial district?

MR. RICHARDS: I believe they are in excess of 300,000. 360,000, Your Honor.

CROSS EXAMINATION,

By Mr. Gladden:

Q. Mr. Lewis, you testified that Mrs. Andujar did not

have any prior exposure. Mrs. Andujar's husband is a prominent pathologist in Ft. Worth, is that not correct?

A. Yes, sir.

Q. All right. And Mrs. Andujar has been a State Committee woman for the Republican party for many years, has she not?

A. If she has--not to my knowledge.

Q. Did you read in the newspaper that she ran for State Representative on the Republican ticket two years prior to the time that she--

A. Yes, sir, I'm familiar with that.

Q. Okay. She has had some prior exposure, has she not, in seeking political office in Tarrant County?

A. To that degree, yes.

Q. To the degree that she offered herself, got the Republican nomination and ran against a Democratic opponent two years prior to the time that she was elected to the State Senate?

A. Right. You are right.

Q. Is that correct?

A. Yes. That was her only, to my knowledge, the only political exposure she had ever had.

Q. You don't recall reading anything about her activities in the Republican party?

A. No, sir. I didn't realize that she had held that

position as a matter of fact.

Q. All right. And in that connection, her opponent in the general election--she was actually elected in the general election, was she not, rather than in the primary?

A. Right. I don't recall that she had an opponent. She didn't have an opponent in the primary.

Q. And so the election--

A. The only race she ran in was the general election.

Q. Has there ever been a Republican elected, a State Representative from either District 32 or Tarrant County in the general election for the House of Representatives, Mr. Lewis?

A. To my knowledge, no.

Q. All right. And in this connection, her opponent in the general election was Mike Montrive whose family is involved in the oil business and voted a pretty conservative record down in the house of representatives, did he not?

A. Yes, sir.

Q. Now then, you told the Court that he was the incumbent. Actually he was--

JUDGE GOLDBERG: Mr. Gladden, we have had enough trouble with the Legislature, please, let's keep out of the Senate as much as possible.

MR GLADDEN: I'll do my best, Your Honor. I just want to say that he was not an incumbent Senator.

THE WITNESS: I pointed out to the Justices here that he was from the House or Representatives.

MR. GLADDEN: Thank you very much, Your Honor.

MR. YORK: We have nothing further, Your Honor.

JUDGE GOLDBERG: That's all? Now, have we finally split with Tarrant County? Have we exhausted it?

MR. YORK: As far as we are concerned, Your Honor, we can continue the tour. That's the only live witness we intend to put on from Tarrant County.

JUDGE GOLDBERG: What is the next stop on the tour? The Plaintiffs, the intervenors or somebody.

MR. RICHARDS: We are ready to go, Your Honor.

JUDGE GOLDBERG: What county do you want first?

MR. RICHARDS: I would like a chance to make a brief opening statement, get my exhibits which are all marked and then go forward.

JUDGE GOLDBERG: Go ahead. Get through with your housekeeping, but do it as expeditiously as you can.

MR. RICHARDS: I have marked and tendered copies of my exhibits both to the State and I will get them here briefly. I have tendered I think copies of my exhibit list before your Honors. And I'm not aware that the State has seen my exhibits previously. And I'm not sure if they have any objection at all. The exhibits, some of them are of statewide significance. Some relate to the evidence we

are offering with respect to various counties. I think even one of them relates to Tarrant County as a matter of fact.

JUDGE JUSTICE: I think there was one introduced previously.

MR. RICHARDS: Yes, Your Honor. That was offered to show that there was at one time in Tarrant County an identifiable Mexican-American school. I think that's the only Tarrant County exhibit.

JUDGE JUSTICE: Are you offering these 28 exhibits in evidence?

MR. RICHARDS: I am offering at this time. I move their admission. I have previously handed the court a copy of my exhibit list.

JUDGE GOLDBERG: Is there any objection?

MR. YORK: Your Honor, we would have objection somewhat along the same line that we earlier made about Exhibit 12 which is an advertisment from a Waco paper, Exhibits 13, 14, 15, 16 and 17 which are either newspaper stories or ads which appeared in the paper on the basis that they are hearsay and that they do contain in some instances conclusions of the writer which there have been no showing of his ability to give.

MR. RICHARDS: I don't think that's a fair objection. Our exhibits are ads placed by political candidates which are self-speaking or they are quotations by political

candidates who are making speeches on the issues of the day. And we don't think they fall-- They are all self-speaking events. We don't consider them as hearsay at all. They are events.

JUDGE GOLDBERG: Well, let's receive them in evidence under the general rules that we stated before and we will lubricate upon them later on.

MR. YORK: Ane then as far as exhibits--

MR. RICHARDS: Mr. York has asked me about Exhibits 19, 20, and 21. They are reports filed by the respective school districts in 1972 with HEW indicating they are black schools, white schools and mixed schools. Those are their reports and they previously tendered to your Honors without objection.

MR. YORK: We would have no objection to 19, 20 and 21.

JUDGE GOLDBERG: What's this decision in USA vs. Ron Sherman?

MR. RICHARDS: I just thought it was a simple way of putting it in. It just simply shows the pattern of segregation of local unions in the Gulf Coast area which we rely on in part in connection with our case. It may not be a proper exhibit, but I didn't feel it would be harmful for the record either.

JUDGE GOLDBERG: Go ahead.

JUDGE WOOD: Is it a reported decision?

MR. RICHARDS: It is a reported decision, yes.

JUDGE WOOD: Can't we take judicial knowledge of that?

MR. RICHARDS: I'm sure you can.

JUDGE GOLDBERG: Go ahead.

MR. YORK: Your Honor, we may have some objection in regard to some of those things, specifically about remoteness. Some of them are so far back that we say they are too remote for the Court to consider but I think we can't very well make those right now.

JUDGE GOLDBERG: You can make them later on.

MR. YORK: At some point.

MR. RICHARDS: One or two items preliminary further, Your Honor. The State has indicated that they will rejoin the same stipulation that we had last time around which I would like to confirm at this time. It is in the pretrial order in our original case and it provided that from 1900 until 1966 no black or negro citizen of the State of Texas was a nominee of the Democratic or Republican party for any elective office in the State of Texas. I would like to restate that stipulation at this time and assume that it continues as a part of the record in this case based on my discussions.

JUDGE GOLDBERG: Mr. York, you have no objection

to that, do you?

MR. YORK: I think we agree to that, Your Honor.

JUDGE GOLDBERG: The Court looked at it once, didn't it?

MR. RICHARDS: Yes. I just wanted to be sure that it was here again, Your Honor. We want to move to amend our witness list which has already been approved. We are striking our witness Maurice Olian. We are adding a witness, Representative Weddington that I previously advised the State as to that, and as I understand it they have no objection.

We would like to tender into evidence the depositions taken with respect to Jefferson County which were the depositions of William Oliver and Cleveland Nisby. In both instances, the agreement of the parties was that all objections as to form and substance as to any question would be made at the time of the taking of the deposition. And we will rely on the depositions since their objections appear. We would offer all exhibits that were attached.

Similarly, with respect to our case in McLennan County, we would offer at this time under the same statement the deposition of Robert Gilbert and former Representative Tom Moore of McLennan County. In connection with our proof with respect to these two counties, it is not contemplated, although there may be one or two exceptions, that we would call any live witnesses. At some appropriate time, I would

like the opportunity to summarize their depositions and to incorporate it in an opening statement if that would be agreeable.

JUDGE GOLDBERG: Let's get all of the depositions in first. I mean let's get everything in that you want in.

MR. RICHARDS: That concludes my tender.

JUDGE GOLDBERG: You have cleaned up everything?

MR. RICHARDS: Mr. Geroge has reminded me that our joint witness list should include Richard Alms as a witness, and the State has previously been informed of that.

JUDGE GOLDBERG: Having done that, I think it would be helpful to the Court, Mr. Richards, if you would tell us generally what your theories, thesis and evidence will be with respect to these counties.

JUDGE JUSTICE: I don't believe there was any formal ruling on the exhibits.

JUDGE GOLDBERG: They will be received. Keep this down to about 10 minutes.

MR. RICHARDS: I will, Your Honor. Let me start with Jefferson County. With respect to Jefferson County, the record as we understand it, undisputed at this stage, is that the County is composed of some 25 percent of it's citizens black, four-and-a-half percent Mexican-Americans. No black has ever been a nominee of the Democratic party for any office in that county. The evidence shows that there

has emerged in recent years, notably in the '60s with the adoption of the civil rights act, substantial tension between the white working class and the black working class in that county. Jefferson County is a heavy refining county. Much of the employment is in those refineries. And historically, both the local unions there and the line up of employment in seniority were segregated. The second factor which we think is significant in this mosaic is that traditionally this has been a county in which organized labor has played a very significant political role and that the endorsement by COPE, an arm of organized labor has been very instrumental.

Our evidence is one, that no black has ever been endorsed by COPE. Two, that tensions have now reached the stage following the merger of the segregated locals, following the opening up of the lines of seniority, the tensions that emerged from that, that if anything, the situation in fact has gotten worse today than it was in 1964.

There is testimony in the record that the AFL-CIO leadership that was in fact itself perhaps sympathetic to the notion of blacks running for office has advised those candidates that they felt they could not in fact endorse a black candidate for public office in that county for fear of the hostility within their own membership, that they would be defeated for re-election if the undertook to do so.

We have one person, a man named Al Price who has

run twice as a black man for the legislature. Once in '64 and again in '72. He was the first black man ever to be employed as a pilot by American Airlines. He is a long time citizen. In fact, his father was the principal of an all black school in Jefferson County. He is a man of some 12 years in the military and retired as a Captain. When he ran the last time for office in 1972, he ran a well financed, extremely credible campaign which addressed itself to the issues throughout the community and got essentially no votes outside of the black community. He went down to defeat. In fact, one of the persons who nosed him out in the run-off has subsequently been indicted for conspiring to murder one of the other legislators down there.

That in 1964, a candidate, a long time lawyer by the name of Elmo Willard, a black man in the county, ran for County Commissioner. Forced a runoff against an incumbent white office holder. That during the course of the runoff, in the black precincts there were armed white deputy Sheriffs stationed at black poling places which resulted in--

JUDGE GOLDBERG: Is this all in the deposition?

MR. RICHARDS: Yes, it is. That during the course of that campaign for office, that appeals were made in the white precincts that do not--"You'd better watch out, blacks are taking over the Courthouse, get out and vote." That's the pattern in Jefferson County that emerges as we see

it from the depositions. I suppose there is more detail to it, but that's essentially the argument we make.

Segregated schools systems continue. In fact, there is testimony today they are still busing black students from one end of Beaumont to the other past two high schools to put them all together into a black high school.

So, our evidence is we feel substantially isolated black communities in Jefferson County, one that's victimized by historical hostility.

In McLennan County, our evidence--

JUDGE GOLDBERG: Jefferson is all documentary or deposition?

MR. RICHARDS: Yes, it is, Your Honor. I have indicated we might call Bill Oliver very briefly.

McLennan County is all deposition at this stage. There we are dealing with much more of a historical agrarian community which is 16 percent black and a population of 7 percent Mexican-Americans and virtually the total--they all used to live east of the Brazos River, but they are coming across the river a little ways now. But there is still substantial segregation within the community. And there is a fact in McLennan County, and I want to revert to the same in Jefferson, and the same will appear in Travis County, that each time it appears that blacks might be successful in the political process, first in Jefferson County, the first

time that it began to appear that blacks might be successful in the County Commissioners race, they simply altered the district to reduce the black component.

In McLennan County, the first time a black ran for City Council in the city in 1950, our evidence is it became apparent there was some threat that a black be elected on the City Council, they immediately changed the election laws in Waco to alter the system so that he must be elected city wide.

Our pattern in Waco is essentially one of neglect and not participation. Total non-participation in virtually all political affairs in the community.

This brings me to our Galveston County proof in which we are taking entirely different wrinkle, and this will be my first witness, so I had better make that one quite clear. Galveston County, the county which has been divided as a consequence of the recent legislative redistricting bill, a substantial portion of the County has been removed and tied in through Chambers County all the way into the present Harris County.

Our argument in Galveston County will be that the nature of the Plaintiff was to fragment and dilute the black vote because it arbitrarily came into the County, removed an area of West Texas City that's heavily black, some 7,000 residents. That's our argument there.

And our argument will be in that county, our

evidence will be that we will say that the Court should probably restore that black area to the basic district under Johnson vs Conner inasmuch as single member districts are preferred, just construct single member districts for the two member district that remains in Galveston.

JUDGE GOLDBERG: Do you have a live witness?

MR. RICHARDS: I have Representative Ed Harrison who I'm going to put on on that point.

Our Travis County proof which is being divided between us and MALDEP will parallel I think that of the other counties. But it will all be live and I suppose it will be self--I think it will be clear.

JUDGE GOLDBERG: What else have you got?

MR. RICHARDS: Mr. Korbel is responsible for the counties, for developing evidence with respect to El Paso, Nueces and Lubbock.

JUDGE GOLDBERG: And Hidalgo?

MR. KORBEL: And Hidalgo.

JUDGE WOOD: And as I understand it, gentlemen, there are nine multi-member districts challenged by this case, is that right?

MR. RICHARDS: Yes, sir.

JUDGE WOOD: By the Plaintiffs? Are these all of the multi-member districts in Texas?

MR. RICHARDS: That's all there is.

JUDGE WOOD: There are no others. All nine are challenged? All right.

JUDGE GOLDBERG: I think Mr. York should now tell us what he is generally going to show. I think this is an advantage to the Court. We can know what to look for or what not to look for. Let's hear from you, Mr. Korbel.

MR. KORBEL: I'm George Korbel representing the Plaintiff-intervenors Moreno et al. My counties, Your Honor, the counties that I am responsible for are Lubbock, El Paso, Nueces and to a lesser extent to Travis and Hidalgo. Lubbock County has a typical situation like McLennan County. You have almost no participation of the Mexican-American which accounts for approximately 17 percent of the population and blacks another 10 percent or so. We have never ever had a Mexican-American run for the State House of Representatives. You have only had one Mexican-American elected to one post and that was a Constables post. There is testimony from the immediate past Democratic Chairman that at least 25 percent of the Anglos would vote against the Mexican-American simply because he is a Mexican-American.

THE COURT: Do you have any deposition testimony?

MR. KORBEL: Yes, Your Honor. There are four depositions in Lubbock County and I was going to summarize those. The first deposition is a deposition of Madison

Bowder, the immediate past Democratic Chairman. He testifies that at least 25 percent of the Anglos would vote against a Mexican-American because, simply because he's a Mexican-American. He testified that he was himself in favor of single member districts for school boards and city councils and his reason is obvious. ...

And then there was the deposition of Froy Salinas and Jessie Rangel and a Rev. Howell who is a Catholic Priest there. And they generally testified about instances of discrimination to the Mexican-Americans in Lubbock County. Those would include at least one swimming pool in the county which was integrated only last year. There are instances of discrimination in public facilities very recently. And instances of discrimination in restaurants and theaters in the middle and late '60s.

And also we will offer into evidence by deposition two Masters Thesis from Texas Tech, one Masters Thesis dealing with the history of dscrimination against Mexican-Americans in Lubbock County and one dealing with the history of the Lubbock Independent School District.

JUDGE GOLDBERG: No live testimony?

MR. KORBEL: There will be no live testimony from Lubbock County. No, Your Honor.

The next county we are dealing with is Nueces County. Nueces County, the Mexican-Americans represent upwards

of 45 percent of the population. Yet, since reconstruction only two Mexican-Americans have ever been elected to the House of Represenatives and then not at the same time. We have testimony in the record by deposition from Hector Garcia, Dr. Hector Garcia about instances of discrimination against Mexican-Americans, some old and some new.

Do you want me to summarize those instances?

JUDGE GOLDBERG: We will read the deposition.

MR. KORBEL: We have the deposition of Paul Montemayor dealing with the situation in the schools, dealing with the polarization of the community. We find the same thing in Nueces County that Mr. Richards finds in Jefferson County. There was a time in the middle '60s when things were going along pretty well over there. But in Nueces County since the school case since the Corpus Christi school case, the community has become increasingly polarized. And we find a reference to racial overtones in campaigns and that type of thing. That's in the deposition, Your Honor.

Judge GOLDBERG: No Live witnesses on Nueces County?

MR. KORBEL: We have listed one live

from El Paso and that would be Representative Paul Moreno. But we don't know yet, Your Honor. I understand the Republicans may offer one witness.

JUDGE GOLDBERG: Yes, we will get to Mr. George.

MR. KORBEL: Yes, sir. I think basically our cases, we see two current running --

JUDGE GOLDBERG: What about Hidalgo County? What are you going to do with it?

MR. KORBEL: We are going to put our expert witness on, Dr. Charles Cotrell. He is very familiar with Hidalgo County.

JUDGE GOLDBERG: One live witness on Hidalgo? There are no depositions on Hidalgo?

MR. KORBEL: No depositions. I understand the State is going to introduce a deposition.

JUDGE GOLDBERG: I'm talking about you now. We will get to the State in due time.

MR. KORBEL: That exhausts my comments, Your Honor.

JUDGE GOLDBERG: Thank you very much. Now Mr. George, tell us what you are going to do.

MR. KORBEL: As a matter of record I suppose for housekeeping, I'm going to offer all of the depositions and the exhibits attached thereto. Also I have a box of exhibits over here. I have a box of exhibits over there.

JUDGE GOLDBERG: Have they been shown?

MR. KORBEL: They've been shown to the other side. Unfortunately, my secretary is in San Antonio and so I've got a list written out but it's not typed up. As soon as I get it

typed up. I'll tender that to the Court, and I would like to tender all of the exhibits into evidence.

JUDGE JUSTICE: Have they all ben marked?

MR. KORBEL: Yes, Your Honor.

JUDGE GOLDBERG: Has the State looked at them?

MR. KORBEL: Yes, Your Honor.

MR. YORK. We have a problem with a few of them. We have one or two objections to them, Your Honor.

JUDGE GOLDBERG: Well, before we finish all of the proceedings, we will spend some time regarding the making of objections to some of these things. In the meantime, look at the list and so forth. We are going to give you the night off so that you can work on this thing. I'm warning everybody, we might have a night session tomorrow night.

MR. KORBEL: I might say, Your Honor, that most of the exhibits are self explanatory and they will be used for the purpose of the post-trial briefs.

JUDGE WOOD: Can you get a list of those exhibits to Counsel by tomorrow?

MR. KORBEL: Yes, sir. I can give them a copy of the hand written statement right now, Your Honor.

JUDGE GOLDBERG: Mr. George, what are you going to do?

MR. GEORGE: Your Honor, quite briefly we will have one witness. We will have one live witness from El Paso County and one witness, we are planning one live witness for Jefferson County, each of which will take a very short amount of time.

JUDGE GOLDBERG: That's all? We are very grateful to you for your promised brevity. Now, Mr. York, tell me what you are going to do.

MR. RICHARDS: Your Honor, Mr. Crawford will present our position on the Travis County case.

MR. CRAWFORD: Your Honor, if it pleases the Court, we will be very, very brief. We will probably call some four witnesses in the event we need them primarily for rebuttal purposes. They are all on our list. It is in conjunction with the Plaintiff's case, Your Honor, and I believe that's all I have.

JUDGE GOLDBERG: All right Mr. York, tell me what you are going to do.

MR. YORK: Your Honor, we would like, if we may, to reserve an opportunity to make a little fuller opening statement at the time we begin to put our witnesses on. However, to give the Court some roadmap, at least timewise in part as to what we are going to do, we do of course want to urge the Court to consider these counties, county by county, and not brush them with a broad brush. But we intend to have deposition testimony from Lubbock County with no live witnesses. Deposition testimony from El Paso County and probably

with two live witnesses. Deposition testimony from Nueces County with one live witness. One deposition from Hidalgo County with no live witnesses. As other Counsel have indicated the entire Travis County presentation from all sides will be live. I expect ours will not, depending upon what they do, may not extend more than one or two witnesses.

Tarrant County we've been through. Galveston County, probably will not require a witness.

JUDGE GOLDBERG: Which County?

MR. YORK: Galveston. McLennan County we intend to offer deposition which we took of Former State Representative Tom Moore, without any live testimony from there. And we would not anticipate any live testimony from Jefferson County. I believe that completes the list. It would indicate for us about four or five, perhaps live witnesses with a variety of deposition testimony.

JUDGE JUSTICE: Let me ask you this, why don't we have any depositions from Travis County? Why is it all going to be live as distinguished from the rest of these counties?

MR. YORK: Well, I would have to speculate in part as to why the Plaintiffs did not take any depositions. We did not take any in part because they didn't.

JUDGE JUSTICE: That's a good answer.

MR. YORK: And Your Honors were kind enough to

come down here to try the case.

JUDGE GOLDBERG: Thank you very much. We will take a 10 minute recess and then go on with our evidence.

(The Court recessed at 3:50 and resumed at 4:05 PM.)

MR. RICHARDS: We have one further stipulation that the parties agreed to that I neglected to read. If I may read it into the record. This is to save us from the necessity of calling each individual party plaintiff. The stipulation is that, it's the same stipulation we had before, that each individual party plaintiff if called to testify and placed under oath would testify that he or she is a resident citizen and registered voter of the County as alleged in the pleadings and that he or she is of the race, color, economic level and political preference alleged in the complaint or plea of intervention and that each contends that he or she is denied constitutional rights by the reapportionment scheme hereunder attacked.

JUDGE JUSTICE: So stipulated.

MR. YORK: Yes, sir.

MR. RICHARDS: Representative Harris, please. If it please the Court, I think as I indicated, it is not our contention that the existing multi-member district in Galveston County as it is presently constructed and functioning operates to the disadvantage of the minority within the

county, but rather we are contending something else with reference to Galveston County which is a fragmentation.

ED HARRIS,

called as a witness, was duly sworn and testified as follows:

DIRECT EXAMINATION,

By Mr. Richards:

Q Would you give us your full name, please sir.

A Ed J. Harris.

Q And where do you live, Mr. Harris?

A I live in Galveston, Texas.

Q Are you a practicing attorney there?

A Yes, sir.

Q And a member of the Legislature?

A Yes, sir.

Q For what period of time have you served in the Legislature?

A I'm in my sixth term.

Q That would be beginning when? '62, would that be correct?

A I was sworn in in '62. I was in the 58th session. 1963 was my first session.

Q And you have served continuously since that time for Galveston County?

A Yes, I have.

Q Mr. Harris, we have talked a bit about the current Legislative District in Galveston County with respect to the removal of a portion of Galveston County into another legislative district. Is this the first time that Galveston County to your knowledge has been less than county wide, I mean less than a county wide district?

A In 1970 it was determined that Galveston County had an excess of about 20,000 people for two districts. We had the problem of taking care of the excess which would be put into a partial district and shared with other counties.

Q But up to that time, Galveston County had a county wide legislative district, is that right?

A A two member multi-member district.

Q And in the legislative redistricting bill board plan, a portion of Galveston County was removed, is that right?

A Well, the bill we passed in 1971 took care of the surplus and put it in the -- put 19,000 Galveston Countians into a district with Chambers and part of Jefferson and Liberty County.

Q Then the legislative redistricting board bill altered that, is that correct?

A Suddenly, unexpectedly the Constitutional Redistricting Board complete absolished or did away, discarded the plan

that we had adopted in the 1971 session. I believe it was the 62 session. And just arbitrarily imposed a plan which divided the County into two land -- took two masses of land in which our surplus was included and put it in with Chambers County and part of Harris County.

Q You have before you Plaintiff's Exhibit 1 which I previously showed to you. That's Wright Intervenor's Exhibit 1 which sets forth the racial composition of the census tracks in that district which is District 17, is it not?

A Yes, sir.

Q District 17 being that district which takes a portion of Galveston, Chambers County and portions of Harris County, is that correct?

A Yes.

Q Could you comment on that district, District 17 in terms of how it affects the interest of the black minority of Galveston County?

A District 17 includes a corridor that comes from out of Galveston Bay. And it's about four or five miles wide and runs straight to the heart of the County to take out a census track with about 5,500 black people in it. It is an appendix that stretches to the heart of the county and takes out this census track 1219 which contains 5,500 blacks.

Q Our exhibit will demonstrate it. It ties in to virtually an all white-- All of the other census tracks i

Galveston County are all white, is that not true?

A It ties in with Bcliver which is across the bay and the opposite end of the county. No blacks on Boliver County which is in Galveston County. And Chambers County across the bay with white rice farmers and fishermen. And Deer Park, La Porte and Seabrook in Harris County with less than 1,000 blacks in which live principally industrial refinery workers.

Q In Exhibit 1 it reflects this composition. How has the removal of these blacks, this black census track from the legislative district in your view affected tne interests of the black minorities in Galveston County as far as the legislature is concerned?

A It accomplished exactly what it was intended. The purpose of this plan was to dilute and wash down or neutralize the effect of these black voters in order to influence the results of the legislative race in Galveston County.

Q This particular census track 1219, would you comment on it in terms of the nature of the blacks who live in that track.

A The 5,500 blacks who live in census track 1219 are probably of an average intelligence on the level with the whites in the district. Most of them are refinery workers. They work at the Texas City Refineries. They have an average

income I would say of about $8,000. The black leaders of Galveston County live in West Texas City which is census track 1219. They and the contributions which they make to the political races of the county were removed and their influence was diminished.

Q This particular census track 1219 as you have characterized it is one in which a large number of black leadership of the county live, is that correct?

A Yes, sir.

Q Can you name just a couple of them for us?

A Johnny Henderson.

Q He is one of our Plaintiffs here, is that correct?

A Yes, sir, he is a statewide official of the AFL-CIO. Roosevelt Henderson, Johnny Henderson's brother, is a business man in Texas City and was a candidate for the City Council of Texas City. And I can name --

Q That kind of leadership exists in 1219, is that correct?

A Yes, sir.

Q All right, sir. In Galveston County legislative politics, has the black community in the past participated as an active member of the functioning political coalition in that county?

A They have. Each time I have run for election I have gone over and talked to those people, worked with them.

And that's the reason I am here today. I believe in the purpose of this suit. I think that they are being discriminated against.

Q All right, sir. What would you as a legislator from Galveston County like to see this Court do with respect to the legislative district in that County?

A I'd like to see the census track 1219 restored to the multi-member district which Galveston County now is. And I would ask the Court to divide the county into two single member district because I think that the rights and the welfare of these blacks and the other blacks in the county would be served by the institution of single member districts in Galveston County.

Q Is that the point of view by the way of the other legislators from the County?

A The plan which we offered was a plan which was devised last spring during the regular session of the legislature. It came out of the Courthouse in Galveston. It was the product of efforts on the part of the County Judge and approved by the Commissioner's Court. And it resulted from the cooperation of Representative Baker who is the other Representative from Galveston County, District 19B and Representative Ed Watson who is the incumbent in District 17.

Q Why was it, as you say it, that the last legislature didn't come up and approve the single member district

plan for Galveston County?

A We were told and we fully expected that Galveston County would be divided into single member districts and that our plan would be adopted as a part of the omnibus redistricting house bill. Well, along about the first of May we realized that the membership from Tarrant County apparently was opposed to single member districts. And I think the senior member from Tarrant County, Mr. Finney, was a member of the redistricting committee.

And we suddenly realized within about three weeks of the end of the session that there would be no redistricting bill coming out of the redistricting committee. And without a committee approved and recommended by the committee there was no chance, we were unable to divide our county, Galveston County into single member districts.

Q In your opinion as a legislator from Galveston County, is it your view that the interests of the racial minorities, both black and Mexican-American would be better served by single member districts in that county?

A I certainly do. I think most of these groups are people of limited average means. The average black in Galveston County would have a very difficult time running county wide. The multi-member district contains 150,000 people. And I have run six times and I know the cost of

running. When I was elected back in 1962 I spent $5,000. The costs are greater now. I think it's obvious that if we would divide the county into two single member districts with 75,000 population in each district, the cost of running would be much less and the cost of serving these people to the members of the legislature in serving these people would be reduced accordingly.

Q And I suppose better communication could be created within the district?

A Yes, sir.

Q Now, in terms of just your comment and the map will be before the Court, is there any geographic logic to the existing district, that is, the way that they have gone into Galveston County and taken 1219 out of it?

A None whatever. District 17 is a monstrosity. You wouldn't believe it until you see in on the map. It goes all the way around Galveston Bay. It is composed of three separate land masses. You've got to see it to believe it.

Q Without putting you in a position of overstating anything to the Court, but assuming that the Court should conclude that single member districts were desired or should be implemented in Galveston County, do you see any reason why the implementation of such a plan should be delayed beyond, or should be delayed at all?

A No, sir. I know of no one opposing it, not even

the Republicans. In fact, Mr. Richards, the Republicans tell me they are very much for it.

MR. RICHARDS: That's all I have.

JUDGE GOLDBERG: Anyone else?

CROSS EXAMINATION

By Mr. Gladden:

Q Mr. Harris, you mentioned Tarrant County representatives in your opinion were opposed to single member districts. And it is the largest single multi-member district at the present time, is that correct?

A Yes, sir.

Q All right. In that connection, you mentioned Representative David Finney who was on the redistricting committee. In addition to that, was he not Chairman of the State Affairs Committee of the House of Representatives?

A Yes, he was.

Q Had he been in favor of single member districts, do you feel like Mr. Finney would have been able to get a bill out of the Legislative Redistricting Committee?

A Yes, Mr. Gladden. If Mr. Finney and the others eight members from Tarrant County, if they had been in favor of single member districts we would have had them. We thought we had them until about the last week of April when all of the sudden we realized that Tarrant County didn't want single

member districts. And they told us that since they didn't want them and Nueces didn't want them and one other, Jefferson didn't want them, that none of the lesser counties could have them. Arbitrarily they told us that you aren't about to get them.

MR. GLADDEN: I believe that's all, Mr. Harris. Thank you very much, Your Honor.

JUDGE GOLDBERG: Any further questions?

CROSS EXAMINATION,

By Mrs. Levatino:

Q My name is Liz Levatino. Mr. Harris, what percentage of District 19 is black?

A Well, Galveston County has 33,000 blacks. District 1219 contains about 5,500 blacks.

Q No. District 19, the legislative --

A Census track 1219 contains about 5,500. So, you take 5,500 from 33,000 and you wind up with about 28,000 blacks, 27,500 blacks in District 19.

Q Which would be about 20 percent?

A Well, I think 33,000 is 18 percent of 170,000. So, 26,000 would be about 19 or 20 percent of 150,000.

Q Okay, about 20 percent?

A Yes, ma'am.

Q Okay. You were talking about the taking out of

census track 1219 from Galveston County. And that this was done arbitrarily by the Legislative Redistricting Board, is that correct?

A Yes, ma'am.

Q The reason, is it not true that the reason the Legislative Redistricting Board had to readjust the house legislative district line was because the present plan was declared unconstitutional in the Supreme Court case, isn't that right. Mr. Harris?

A Well, the present plan was not declared unconstitutional because of the plan we adopted in Galveston County during regular session.

Q But the entire plan was declared unconstitutional?

A I suppose it was.

Q So, was it true that one of the reasons that it was declared unconstitutional was the percentage deviation and also the cutting of county lines? Do you recall?

MR. RICHARDS: I think the record will speak for itself that it was not a percentage deviation. I think the Court opinion will speak for itself.

Q (By Mr. Levatino:) Okay. So in redrawing the plan, they were going to have to change some line, is that correct?

A They could have very well left us as we are.

Q Okay. So it was your opinion that they wouldn't

have had to change anything in Galveston County?

A Yes, thats right.

Q You spoke about the fact that the blacks are very active in Galveston County with regard to the political scene, is that correct?

A Yes.

Q And have they been very active in city politics and county politics?

A Yes, ma'am. In the city of Galveston we have a black councilman. I think the city of Galveston first elected a black councilman in 1962.

Q And is it a fact that at the last election, a black councilman was elected and poled the most votes of anyone?

A In Galveston?

Q In Galveston, of anyone that won? He led the ticket?

A I was up here. I don't remember which one got the most votes. He might have. He is a very popular man in the city.

Q So, in your opinion have the blacks and the Mexican-Americans in Galveston County been active in all levels of the political process either as candidates working in the elections and voting in the elections?

A Yes, they have.

MR. RICHARDS: That's our position too, Your Honor. Maybe I didn't make myself clear.

JUDGE GOLDBERG: Mr. Richards, I think what you are getting ready to say can very well wait for the argument. I understand your position.

Q (By Mrs. Levatino:) Is it true that your major concern here is the fact that approximately 5500 blacks were removed from District 19?

A That's correct.

Q And the fact that a multi-member district does exist in Galveston County has not necessarily affected the general level of activity that the blacks either in Galveston County or in census track 1219 may have in their respective districts?

A It has diluted their effect in the multi-member district of Galveston County. It has also diluted their effect in the district into which they were put. They were put in with a district with about 60,000 whites for 65,000 whites.

Q Okay. In the bill which passed the 62 legislature that contained census track 1219 in Galveston, the Galveston County district, was that a single member plan or a multi-member plan?

A No, we were left -- we were not permitted to divide our county into single member districts.

Q It was a multi-member district plan.

A Yes. It was the same plan that had been adopted by the Constitutional Redistricting Board. We were not changed this year by the bill.

Q I'm talking about the bill that passed the 62nd Legislature.

A In 1971?

Q Yes.

A No. We devised a plan in 1971 and it passed. But it was not a single member district. There was a problem there too. The speaker, you remember -- you don't want to go into that I'm sure. We wanted single member districts then, but we were not permitted to have them because of the big boys in Houston and Dallas and Bexar and Tarrant weren't going to get them. Now they have them and we want them.

Q Okay. You made the statement that in the last legislature, the 63rd Legislature, you understood that Galveston County would receive single member districts as a result of part of the omnibus redistricting bill, is that correct?

A It was our impression that the Federal Court ordered the Legislature to redistrict this state into single member districts. And we wanted to comply with what we considered to be the mandate of the Court.

Q Were you aware that that opinion, that the opinion

of this Court was on appeal at that time?

A Well, yes.

Q And were you aware --

A This is strictly an opinion that ordered single member districts.

Q Were you aware of the fact that the case had already been argued before the Supreme Court? In other words, they were waiting for the opinion to come down?

A I know they were waiting for a lot of cases. Yes, they were waiting for it but we wanted it anyway.

Q I know that. Would it be reasonable to say that in light of the fact that the Supreme Court would be handing down an opinion on this case that may or may not force complete redistricting of the State's complete House Legislative Plan that there was some hesitancy on the part of the Legislature to go ahead and completely reapportion the --

A The only hesitancy I noted was on the part of the members from Tarrant, Jefferson and Nueces Counties who didn't want their counties divided into single member districts. I could explain the reason for that too, if you would like. But that's the only reason against it. And they arbitrarily wouldn't let us divide our county.

Q Were you here for the testimony earlier today that spoke of the attempts of the Tarrant County delegation to get a single member district bill before the floor of the

House, the Texas House of Representatives during the last Legislature?

A I heard part of that testimony and I think I observed all of their sufferings. I was a direct witness to their blood letting.

Q Do you or --

JUDGE GOLDBERG: Let him answer the question, Mrs. Levatino. It is extremely interesting. Even with the shortage of time, go ahead.

A I was a witness to all of the blood letting that was going on. I was doing all I could to encourage those who wanted to divide Tarrant County into single member districts. Of course I couldn't understand all of the reasons for the foot dragging and the delay and the lethargy, but we suddenly realized by the last of April that there wasn't going to be any single membered districts bill. There was one little bill which permitted a member of the Redistricting Committee in San Antonio to make a trade out with another House member. And they very obligingly put this little local bill that corrected and cleaned up two legislative districts in Bexar County on the uncontested consent calandar. And they took care of their problem. But they had a man on their redistricting committee. The rest of us that wanted in good faith to divide our counties into single member districts, we wern't permitted to.

Q But you were aware of the Tarrant County delegation attempt to bring a single member district bill up on the floor of the house?

A Yes, and I voted for it each time.

Q Was there any such attempt made by either you or Mr. Baker or anyone else, any other member of the Legislature to do the same for Galveston County?

A. Well, the last few days of the session we had a lot of other problems. And redistricting was one of our problems, but it didn't have quite the priority to cause us to try to bring it up. You've seen the Legislature in session during it's dying days and it's pretty hard to get the Speaker's attention. But we were ready. We had a bill ready.

Q But you did not introduce that?

A No.

Q I mean you didn't try to bring it ip on the floor?

A No, I was the chairman of the Elections Committee and had other problems on the appropriations Committee.

Q In your opinion, do you feel that as a representative from District 19, a multi-member district, you have adequately responded to the needs of the minorities that you represent?

A I have done the best I could. I could do much better if we could divide Galveston County into single member districts.

Q Do you think you could respond to minorities because it would be a smaller district?

A I could respond to the minorities in my single member district composed of 74,868 constituents. And I think one of them who would like to run against me would have a better chance of making a fair showing in competing against me for the position. And I think they are entitled to that right. It is their right.

Q Do you think they could beat you?

A I'd like to see one try. They can't do it now in census track 1219.

MRS. LEVATINO: I have no further questions.

JUDGE GOLDBERG: Does anybody else have any questions? Thank you.

MR. RICHARDS: I have nothing further and may this witness be excused?

JUDGE GOLDBERG: Yes.

MR. RICHARDS: Larry Bales from Travis County, Your Honor.

JUDGE GOLDBERG: Let me ask you this, Mr. Richards, do you have anymore live witnesses from Galveston?

MR. RICHARDS: That concludes our live testimony from Galveston County. We will put on Dr. Cotrell as a State wide expert who will I assume incorporate within his testimony some of the findings he made there.

JUDGE GOLDBERG: That's fine. Go ahead.

LARRY BALES,

called as a witness, was duly sworn and testified as follows:

DIRECT EXAMINATION,

By Mr. Richards:

Q Would you give us your full name, please sir.

A Larry Bales.

Q Mr. Bales, you are a State Legislator from Travis County, is that correct?

A Yes, sir.

Q Elected for the first time --

A The last time in 1972.

Q You are a practicing attorney in Travis County, is that correct, Mr. Bales?

A I was until just after the section. I'm now in the resturant business.

Q Were you engaged in law practice at the time you ran for office?

A I was.

Q Had you been appointed by one of the District Judges -- oh by the way, whom did you run against?

A An incumbent, Harold Davis.

Q Do you know how many terms Mr. Davis had served in

the legislature?

A He had served two terms.

Q Sometime during the year before you ran for office, had you been appointed by the State District Judge from Travis County to defend a person by the name of Eddie James Ward?

A Yes, I had.

Q As an appointment by the Court, is that correct?

A That's true.

Q During the course of your campaign against Mr. Davis, did he attempt to link you with the Black Panthers because you had been appointed to represent Mr. Ward?

A Yes, he did.

Q And the exhibit before you which is exhibit --

A Number 17.

Q And is that an ad run by Harold Davis in the office of the American during the course of your campaign against him?

A This was just a front group, the alarmed citizens committee.

Q A front group for Mr. Davis' campaign?

A Yes.

Q How much did you spend to run for the legislature county wide here?

A I think approximately $27,500 or $28,000.

Q Was there in addition to that other monies spent on your behalf by other persons, by other groups would you say?

A I'm sure there was.

Q All right. How many votes roughly were cast, if you recall, in the Democratic Primary in Travis County?

A I got the first time 43,000 votes and that was about 48.9 percent of the vote. So I guess approximately 90,000.

Q All right. And a similar turnout in the run-off, is that correct? You were in the run-off against Mr. Davis, were you not?

A Yes, sir.

Q And you defeated him in the run-off?

A Yes.

Q What would you say as to the cost of running for election in this multi-member district in Travis County as it is presently constituted as to the future?

A Well, the cost is always greater for a non-incumbent. If I had it to do over again and wasn't the incumbent, there is no way I would spend that kind of money or would be able to raise that kind of money to run in Travis County.

Q Are you saying to us then or to the Court rather that as you view it, the cost would become prohibitive in this County for a person to try to run for office on his own means?

A Yes.

MR. RICHARDS: That's all the questions we have.

CROSS EXAMINATION,

By Mr. Black:

Q Tom Black from the Attorney'General's Office. Mr. Bales, with reference to the cost, how much again did you say you spent approximately?

A Approximately $27,500. I haven't seen the statement that I filed.

Q You have seen it, but you just haven't seen it recently?

A I haven't see it since it was filed.

Q I believe you reported $26,383.99.

A Then that's the correct figure.

Q And would it be a fair statement to say that that is a far greater amount that was spent by any of the other candidates in the race?

A In my race?

Q No, in the whole district I mean.

A No. I think Hugh Hornsby spent more money than I did.

Q What race was Hugh Hornsby in?

A In Place 2. He was in the run-off with Sarah

Weddington.

Q Now, you were in a race against Harold Davis and who else?

A And Buddy Ruiz.

Q And Buddy Ruiz was eliminated by the run-off?

A That's correct.

Q Do you have any idea how much he spent in the race?

A If I recall correctly, I thank he spent about $6,000 or $7,000.

Q Now Mr. Bales, you were not only not an incumbent, but this was actually your first entry into Travis County politics, wasn't it?

A No. I had run in 1963.

Q What for?

A State Representative.

Q And then this was in 72 that you were running again?

A Yes.

Q It was almost nine years later?

A That's right.

Q You were not known as a political personage in this county, would you think?

A No, I don't think that I was widely known at all. That's why I had to spend so much money.

Q Okay. Of course Mr. Davis, your opponent, was

very well known. He had been in the legislature for quite some time, had he not?

A Yes, sir, two terms

Q And he had had maybe two hard races before that, had he not?

A No. He had an extremely difficult race the first time he was elected, but I don't remember any significant opposition for his second term.

Q All right. And when was it that he attempted to link you with the Black Panthers? Was it during the first primary or the run-off?

A It was during the run-off.

Q And that of course was not successful?

A Well, no. I don't think that would be a fair assessment of it. During the first primary I carried 89 of 101 voting precincts in Travis County. And after these type of scurrilous ads were run, I carried 55 of the voting precincts. And the precincts that changed were in the predominantly white areas. For example, in the first election I carried the majority of my home precinct, 133. It is a middle income white precinct. I was defeated there by 13 votes in the run-off and I attribute that to this type of campaign.

Q County wide as a whole, perhaps in a single member type district it was successful. But county wide, it was not. You won the race, didn't you. Mr. Davis wasn't successful.

A Oh, certainly I won the race, but it certainly had an effect. I dropped from 89 voting precincts to 55 voting precincts.

Q Do you have any idea how much he spent in the race?

A Oh, I think he reported $8,000 or $9,000. I didn't believe it when he filed it.

Q But that's what he reported which was about a third of what you reported, is that correct?

A That's correct.

Q Now Mr. Bales, what was the bulk of your cost?

A Television.

Q And of course even in a single member district you will have that.

A I would anticipate if we had single member districts in Travis County that it would really be senseless to spend all of that money on television time.

Q You don't think television would be of any use in a campaign?

A Well, I think you could campaign more effectively by a door to door campaign or direct mailing. I wouldn't for myself, I wouldn't spend any money on television.

Q Do you know what the experience has been in counties like Dallas and Bexar where they have changed to single member districts? Have they used television in their races or do you know?

A No. I couldn't make a blanket statement. I have had conversations with fellow legislators who were elected for the first time. For example, Jim Maddox from Dallas I think spent only about $7,000 in his campaign. I don't think he used any television. I don't know whether they did or not.

Q You don't know what the general trend has been on that?

A No, sir.

MR. BLACK: That's all the questions I have. Thank you.

MR. RICHARDS: We have nothing further. May this witness be excused?

JUDGE GOLDBERG: Yes. Do you have one more?

MR. RICHARDS: Well, I promised Stuart Long that I would put him on this afternoon and let him go on.

STUART LONG,

called as a witness, was duly sworn and testified as follows:

DIRECT EXAMINATION,

By Mr. Richards:

Q Would you give us your full name, please sir.

A Stuart Long.

Q How long have you lived in Travis County, Mr. Long.

A Nearly all of the time, since 1933.

Q Will you summarize for the Court your work career in the newspaper industry first and then we will come back to politics.

A I've been a journalist since 1935. I have been a news editor of the Austin Statesman, a political and Governmental writer. I have been a news editor of radio station KRET a publisher of the Austin Report, a statewide Governmental newsletter.

Q You have founded and been active in the Long News service since 1945, is that correct?

A Yes, sir.

Q What specifically is the Long News Service engaged in to do?

A We are correspondents for 26 daily newspapers in Texas abd for the Texas State Network, 130 radio stations.

Q Covering the Legislature in political matters in Austin, is that correct?

A Yes.

Q In terms of Democratic party politics in Travis County, let's see, I believe you told me you've been a democratic precinct Chariman since approximately 1946, is that correct?

A Yes, sir, except for two terms off when I moved. My avocation has also included campaign manager for my wife's 13 races for public office in Austin, 10 of which she won and

three of which she lost.

Q All right. Your wife, Emma Long, was on the Austin City Council from 1948 to 1961, is that correct? And then again from 1965 to 1969, is that correct?

A Yes, sir.

Q I would like to turn your attention first to the efforts of black citizens in Austin to try to gain public office. Can you remember the first black candidate for public office in this county or city?

A Yes, sir. I believe the first one was Arthur Dewitty who ran for City Council in 1951.

Q And that's D-e-w-i-t-t-y, is that correct?

A Yes.

Q How were the Austin city council elections conducted at that time?

A Well, everybody ran and the five high took the five seats on the Council.

Q It was not a place system?

A No run-off and no place system.

Q All right. Mr. Dewitty's first race, did you recall approximately what his vote total was and where he ran?

A He got 35 percent of the votes and he ran sixth or seventh.

Q What if anything was the response of the incoming

City Council with respect to the method of election of the City Council in Austin thereafter?

A Well, they changed the city charter to adopt a place system. The people had to run for a place and to require a run-off if the person didn't get 50 percent of the votes.

Q And was that the City Council immediately following the Arthur Dewitty race?

A Yes, it was.

Q All right.

JUDGE JUSTICE: Do you have to be a resident within your particular territory?

THE WITNESS: No. These places were city wide. These were multi-member districts.

JUDGE GOLDBERG: They ran at large?

THE WITNESS: They ran at large.

Q (By Mr. Richards:) Do you remember the first attempt of a Mexican-American to run for public office of any kind in this county?

A My belief is the first one was Pat Mendes, an attorney who ran for the school board in about 1954, '52 or '54.

Q Was he unsuccessful?

A He was unsuccessful also. And shortly thereafter, the school board got the law changed and put in a place system

also.

Q All right. During the 1950s --

JUDGE JUSTICE: What kind of a system did they have before they got the law changed?

THE WITNESS: Very similar to what the City Council had. They ran and were elected and the high one won.

(Mr. Richards gave the witness a drink of water.)

MR. RICHARDS: You sound a little dry.

THE WITNESS: I'm nervous.

Q (By Mr. Richards:) Just briefly, during the '50s, what was the status with respect to the presence or absence of discrimination against blacks and Mexican-Americans in Austin?

A Well, Austin has always been a pretty enlightened city, but we did have of course complete segregation in the schools. In the early '50s we had the swimming pools segregated into three tiers.

Q What were those tiers?

A Well, someplaces where nobody but whites could go and some places where Mexican-Americans couldn't go and some places where nothing but blacks could go. And of course until the Delgado case which was in Travis County in 1946, we had three school systems.

Q Blacks, Mexican-Americans and whites, is that correct?

A There began to be some enlightment in the leadership and finally managed to intergrate the public library in 1954. It was that late in doing that.

Q What about the Golf Courses if you remember?

A The Golf Course also, the blacks were not allowed or Negros as they were called then were not allowed to play golf at the municipal golf course.

Q Let's see, to this day has any Mexican-American ever served on the City Council of Austin to your knowledge?

A No.

Q There is now a black member of the city council is that correct?

A Yes, sir.

Q When was he first elected?

A He was first elected two years ago -- well, two-and-a-half years ago now.

Q Was he the first black ever to be elected city Council?

A Yes, he was.

Q What explains his victory as you saw it and based upon your observation?

A On a heavy vote for him among the extremely conservative precincts since he was on the business men's

slate.

Q Let me turn your attention back to the years 1968-1969, was your wife at that time a member of the Austin City Council?

A Yes, she was in 1968.

Q Can you call to mind for us the attempts by the Austin City Council to adopt a fair housing ordinance for the Government of the city of Austin?

A Yes. The Council did adopt such an ordinance in 1968 by a vote of 3 to 2.

Q This was designed to I suppose prohibit discrimination in the sale of real--

A In the rental of houses.

Q All right. What was the response to that?

A There was a referendum petition. It was submitted to a vote and was repealed by the voters. And in the next election, the same voters eliminated the three council members who had voted for it.

Q That was in the spring of 1969?

A Spring of '69.

Q And those three council members were whom, that were defeated?

A Harry Aiken and Emma Long and -- who was the other one?

Q Dick Nichols?

A Dick Nichols.

Q And their defeat in your judgment is attributable to the fact that they had supported the fair housing ordinance for the city of Austin?

A Yes, I think so. I didn't realize it during the campaign because it was a fairly quiet thing. But it was well organized. And during the election day I began to realize that I had been a very poor campaign manager. My candidate lost by 400 votes. But the others lost by far larger numbers, 12,000 and 8,000.

Q Has any black citizen of Travis County ever been a Democratic nominee for any public office of any character whatsoever in this county?

A No, not for public office.

Q You do have now a black precinct chairman for example, is that what you mean?

A Yes.

Q Is that the distinction you are making?

A Several of them, yes, party officers.

Q Now, we have, at least within my memory since being here -- well, I guess no black -- has any black ever run for the Legislature to your knowledge, Mr. Stuart?

A Didn't we have a Republican at one time?

Q Oh, the most recent time I suppose, isn't it, is that correct?

A Yes.

Q In the 1972 general election, is that correct?

A I believe so.

Q He was not though nominated by a contested primary, was he?

A Yes. I believe we had a primary. It was not contested.

Q It was not contested?

A I believe not. I'm not sure.

Q Just in terms of characterizing Travis County, has the Democratic party dominated Travis County?

A Yes, sir.

Q And continues to do so?

A Certainly.

Q Am I correct that the first Mexican-American to ever be nominated in a Democratic primary as far as your recollection was Richard Moya for County Commissioner?

A Yes.

Q And his nomination would have been when? Can you be -- '69?

A Four years ago.

Q Four years ago. 1970.

A Three years ago. 1970.

Q In terms of the legislative politics as distinguished from other kinds of politics, has there been a group

whether formal or informal that has dominated Travis County Legislative politics during the '50s and '60s?

A Yes. It is, as far as I know, an informal sort of thing. The business lobby is a very big part of it since most of them live here.

Q By that, you mean big legislative lobbyists?

A Statewide lobbys of that kind. But the same kind of folks have been elected repeatedly to our legislative delegation for many, many years. It has begun to change some what in a political sense, the liberal versus conservative sense.

Q That was only in consequence of the '72 election, is that correct?

A Yes.

Q When, for the first time, there were large numbers of student participation, is that correct?

A Large numbers of voters.

Q Yes, a large number of voters too. Well, in terms of what you have observed, has there been any meaningful participation by blacks or Mexican-Americans in that group, that informal business man's group or business group that has dominated legislative politics in this county?

A Not that I am aware of.

Q Well, do you think you would be aware of it if there was any such participation?

A I have watched with interest to see and haven't seen much.

Q We have just seen an instance in the case of Larry Bales, an effort to use sort of a racist campaigning against him and his race for election. Have you seen similar campaign tactics used in Travis County legislative races during the '60s?

A Oh certainly. Certainly. They are used all the time. They have for many years.

Q As you see it, how does the at-large legislative district that is presently constituted in Travis County affect the opportunity of blacks and Mexican-Americans to participate in the legislative politics or the politics of this county?

A Well, they try all the time or they have tried a great many times, but without too much success.

Q Where do the blacks and the Mexican-Americans basically live?

A In East Austin.

Q That's on the other side of Interstate 35?

A Yes.

Q Have you ever known of a candidate for the legislature to be elected from that area?

A No, I don't believe so.

Q How do you see the effect of multi-member districts in terms of costs upon the -- for example, the cost of campaigning

upon the aspirations of the blacks and Mexican-Americans?

A I think all poor people have a worse chance of getting elected than rich folks. Anybody without too much money doesn't have too much of a chance.

Q As far as you are concerned, is there any continuing residue of hostility toward Blacks and Mexican-Americans in the voting populace of Travis County that would make it more difficult for blacks or Mexican-Americans to be elected?

A Yes. I don't think all of the civil rights legislation has eliminated the bias in some people's minds.

MR. RICHARDS: That's all we have. Pass the witness.

CROSS EXAMINATION,

By Mr. Korbel:

Q I have one question, Your Honor. George Korbel for the Mexican-American Legal Defense Fund. You said that Mr. Moya was elected County Commissioner, is that correct?

A Yes, sir.

Q And that is a less than County wide post, isn't that correct?

A It is a single member district for County Commissioner.

Q My question would be has any Mexican-American ever been nominated for or elected to a County wide post in Travis County?

A No.

MR. KORBEL: Thank you.

JUDGE GOLDBERG: The Attorney General's Office?

CROSS EXAMINATION,

By Mr. Black:

Q Mr. Long, do you know approximately what the percentage of blacks in Travis County is?

A Around 20, isn't it? Somewhere in that neighborhood.

Q And has it been that throughout all of these years you've been talking about? Approximately that?

A Approximately that. It was a little lower at times, but it has gained a little bit.

Q And what approximately is the percentage of Mexican-Americans?

A Around 25 percent. It has grown from three percent in 1930, it has grown to 25 percent or more now.

Q Now, I believe you said that Mr. Pat Mendes ran for office for the school board in 1954.

A Yes.

Q Now, there is a Mexican-American on that school

Board in the Austin Independent School District at this time, is there not?

A. Yes.

Q. And his name is Gus Garcia?

A. Yes.

Q. And he was not elected by the business community, was he?

A. Not exactly. As I said, there have been changes in Austin's character, political character in the last, since the changes in registration laws mainly.

Q. Do you know when Mr. Garcia was elected to the School Board?

A. Two years ago, was he not?

Q. Has he been re-elected or do you know?

A. No, he hasn't.

Q. And in that same time, a black was elected to the Austin School Board, was he not?

A. No, I believe she was elected two years before.

Q. And that was Wilhemina Delco?

A. Yes. I'm not sure about the year. It was the weekend after Martin Luther King was assassinated.

A. It may have helped.

Q. Well, regardless of that, she ran a fairly vigorous race and was elected?

A. Yes.

Q. By a fairly good majority, was she not?

A. Yes, she was.

Q. Now, both of those people, you talk about this housing ordinance and how participation in that defeated the members of the City Council. Both of those people, that is, Mr. Garcia and Mrs. Delco, were on the Human Relations Committee that initiated that housing ordinance and recommended it to the City Council, were they not?

A. I don't recollect that they were. They may have. I didn't remember it.

Q. Well, assuming that they were, I don't guess you would know whether they voted for it or supported it very strongly, would you?

A. I'm pretty sure she did. I don't remember about Mr. Garcia.

Q. You really can't imagine that Mr. Garcia would not support the housing ordinance, can you Mr. Long?

A. That's right.

Q. Sir?

A. No, I can't imagine it.

Q. All right, sir. Now, this Mr. Hancox who has been on the City Council, the black on the Austin City Council, you say that he was on the business man's slate. Was he on any other slate?

A. Yes. I believe he got pretty extensive support in the black community.

Q. What about the Mexican-American community?

A. I just don't remember, I assume he did.

Q. In connection with the housing ordinance, do you remember what the vote was on that, those for and against?

A. It was repealed as I recall it by 3,000 or 4,000 vote majority.

Q. And how many people voted for it?

A. About 14,000, 13 or 14,000.

Q. About 20,000 voted against?

A. Yes, I believe that's about it.

Q. I don't want to get into an argument with you about details, but there was a substantial vote for this housing ordinance that came from the white community of this county, was there not?

A. Oh, yes. It wouldn't have come that close if there hadn't been.

Q. All right, sir. Now, this Mr. Nichols, Dick Nichols who was you say defeated because of the housing ordinance, he was re-elected the next time, was he not?

A. Yes.

Q. And then defeated again?

A. Yes.

Q. Now, the second time he was defeated was not because

of the housing ordinance, was it?

A. No, I think it was because he had lost his original support.

Q. Do you feel that the blacks and the Mexican-Americans in this area participate in political campaigns and do they have slates and support candidates?

A. Some of them do.

Q. Would you say that it's a vigorous participation or indifferent or how would you describe it?

A. Depends upon the issues and the candidates. They can get worked up on some campaigns and others they don't.

Q. Are they divided into any factions among themselves to your knowledge?

A. Yes, sure.

Q. Sir?

A. Certainly.

Q. Do you think that in any way impedes their effectiveness?

A. Well, everybody is divided into factions. It is a little more noticable in political activities within the groups because you kind of hope as a campaign manager that you will be able to get some benefit from it, yes. You hope that. You don't approach campaigning with a group of whites in the hope they are going to vote together. You just take, pick out one bunch of whites and try to get them to

stick together and another one and another one. A campaign operation generally takes a little different approach to whites and Mexican-Americans.

Q. Now, this group that you say dominates Travis County politics, that's history, isn't it, Mr. Long? They don't dominate it anymore, do they?

A. No, as I say, there has been a change in the last election I would say. The last two or three elections.

Q. And it has changed in city politics in the last election we have had, hasn't it, to a certain extent?

A. Very little. One-seventh.

Q. I'm afraid I don't understand.

A. The last City Council switched one place.

Q. All right, sir.

A. Politically speaking.

Q. I have one other question, Mr. Long, before I let you go. I didn't understand your statement that before 1948 the schools in Travis County were segregated against Mexican-Americans.

A. Yes.

Q. What schools are you talking about?

A. Well, the one they call the Chili School?

Q. Well, you were talking about there were schools that were primarily Mexican-Americans and those that were --

A. They were entirely.

Q. But there were schools, I mean there wasn't any -- this may have been just an invidious result of housing conditions or whatever it is, but the schools were not by law segregated in Travis County in the '30s or the '40s, were they, Mr. Long?

A. Not by law, but by practice.

Q. Did you ever hear of the Allen Junior High School?

A. Yes.

Q. Would you say that it was a segregated school in Travis County?

A. No, but in the Delgado case, Dell Valley had a segregated school.

Q. I'm talking about Austin.

A. That's Travis County.

Q. Sir?

A. It was --

Q. Excuse me, I'm not talking about Dell Valley. I'm talking about the Austin Independent School District.

A. Yes. They had schools that were solidly Mexican-American only until they were closed after this case.

Q. But they also had schools that were mixed, did they not?

A. Some.

Q. Sir?

A. Some mixed at the higher levels.

Q. Right.

MR. BLACK: That's all the questions I have.

MR. KORBEL: Your Honor, we have one question.

RECROSS EXAMINATION

By Mr. Korbel:

Q. George Korbel again for the intervenors, Moreno et al. In the Delgado case in Bastrop, there was a separate Mexican school where only Mexican school children attended and that was the only school that they could attend, isn't that correct?

A. Yes.

Q. Isn't it your understanding they had the same practice by School Board policy in Austin, that there was a separate Mexican school that only the Mexican children attended and that was Zavallo and those schools?

A. Yes. That's right.

MR. KORBEL: Thank you very much.

JUDGE GOLDBERG: Anything else? All right, we will stand in recess until 9:00 in the morning.

(The Court recessed at 5:00PM.)

AUSTIN, TEXAS
DECEMBER 4, 1973
SECOND DAY OF TRIAL

JUDGE GOLDBERG: Good morning, one and all. I think we are on a tour of Travis County, hopefully no detours through the day, no blowouts, no blowups.
All right?

MR. RICHARDS: A brief detour, Your Honor, as we open this morning, Mr. Korbel has a witness to put on the stand, Representative Reyes.

JUDGE GOLDBERG: Representing what?

MR. RICHARDS: Representative Reyes from Houston is the next witness to be called by Mr. Korbel as a part of our overall case.

JUDGE GOLDBERG: From Houston, Harris County?

MR. RICHARDS: We're not asking you to alter the districts in Harris County. It's just a part of our overall case.

JUDGE JUSTICE: What do you mean part of your overall case?

JUDGE GOLDBERG: I thought maybe we were going to go through 254.
(LAUGHTER)

MR. KORBEL: It's an unexpected stipend, but I hope it will be helpful.

George Korbel, representing the Plaintiffs Moreno, et al.

BEN T. REYES,

a witness called by the Plaintiffs Moreno et al, having been first duly cautioned and sworn to testify the truth, the whole truth and nothing but the truth, testified as follows:

DIRECT EXAMINATION

BY MR. KORBEL:

Q. Would you state your full name and address for the record, please?

A. Ben T. Reyes.

Q. What is your address?

A. 1006 Zoe, Houston, Texas, 77020.

Q. What is your occupation?

A. I am a member of the 63rd Texas Legislature.

Q. How old are you, Representative Reyes?

A. I am presently twenty-six years old.

Q. How old were you when you were elected to

the Legislature?

A. Twenty-five.

Q. Representative Reyes, were you elected from a so-called single-member district?

A. Yes, I was.

Q. Can you describe that district?

A. My district is the richest district in the State of Texas. It encompasses all of downtown Houston, all the major banks, all the major law firms. It encompasses the Port of Houston, all the industry in and around there, and I guess you would say it probably has the poorest people of Houston. It has the Second Ward area, the Mexican-American community, the Fifth Ward area, which most people in Texas are aware of now because of Mickey Leland's work in the Fifth Ward area.

Q. Mickey Leland, he would be a Representative from Houston also?

A. Yes, he won the race from the Fifth Ward.

Q. What is the percentage of breakdown of the Mexican-American and black in the precinct?

A. It's about 47 percent Mexican-American, about 27 percent black and the rest Anglos.

Q. Can you give the Court an idea of the relative size of that district?

A. I would say it is about 7 by 3.

Q. Seven miles by three miles?

A. Seven miles by three miles.

Q. Can you describe how you ran for the office of State Representative from this single-member district in Harris County?

A. Well, I think the only way I got elected was the fact that I was a member of that community, and I knew most of the folks that lived there. I was raised either with their children or them. I went to church with the same people. I was a neighbor to them. I did a lot of work in voter registration about four years ago and participated in a lot of voter registration activities, a lot of community fund raising for folks that were burned out or had problems in their families. I did a lot of door knocking. I did a whole lot of work as far as an individual is concerned, a lot of one-to-one things.

Q. A lot of shoe-leather politics?

A. Yes.

Q. Did you have any opposition in the Democratic primary?

A. Yes, I had three opponents. I had a black opponent, an Anglo and another Mexican-American.

Q. Did you have to run in a runoff also?

A. Yes, I was in a runoff.

JUDGE JUSTICE: Who was your opponent?

THE WITNESS: A Mexican-American.

Q. What was your total cost for the Democratic primary and the runoff? What was the total cost that you spent for the election?

A. I spent approximately $3,800.00.

Q. Did you use any television?

A. No, I couldn't afford television.

Q. Did you use any radio?

A. Yeah, I spent about $1,600.00 or $1,700.00 on radio.

Q. Did you have an opponent in the general election?

A. No, I didn't have an opponent in the general election.

JUDGE GOLDBERG: Is it a foreign-language radio?

THE WITNESS: No, it was split in the black community and the Mexican-American community.

JUDGE GOLDBERG: You mean the radio station was beamed to those?

THE WITNESS: Right.

JUDGE GOLDBERG: Good.

Q. So you were able to utilize radio stations which catered to specific minority groups. Is that correct?

A. Yes, uh-huh.

Q. Are you from a wealthy family, Representative Reyes?

A. No, I'm not. My dad works for the railroad right now.

Q. What is his yearly income?

A. He makes about $8,000.00 now.

Q. Besides being a State Representative, what is your occupation?

A. I do that full time.

Q. Harris County was cut into several multi-member districts for the elections, the elections held for the State Legislature prior to your successful election. Can you describe the awareness of your constituency under the multi-member district scheme in Harris County?

A. Well, in my community none or very little awareness of the fact that we even had a State Legislature.

Q. When you started going door to door, talking to these people, they told you what?

A. Most of the people were really turned off at the whole political system, not only at the State level, but on the national, the local and the nation, and in most of the Chicano community the situation was such that, "Well, you know, I have been voting --". The people that had been voting said, " I have been voting for the last ten or fifteen years, and I have seen no results, no benefits come from it.

We have not been able to elect representation," people that represent their interests and their problems, and most of the people were generally apathetic about the political situation.

Q. What was the registration among Mexican-Americans, let's say?

A. I would say at that time of the eligible Mexican-Americans it was about 16 percent.

Q. Since you were elected have you participated in drives to increase registration?

A. It was way before I got elected that I started participating in drives, and since then we have raised it to about 33 percent of the eligible registered Chicano voters in the district. I think you can cover that with the participation in one Chicano precinct, in the Second Ward, which is Precinct 9. We've got participation not only in the politics or the political matters where we have candidates running, but you've got people now interested in bond elections, which is really something that we haven't had in the past. In that precinct in the bond election three years ago we were able to turn out 25 voters. It was close to a $40,000,000.00 bond election. This last bond electio created a mass transit commission in Houston. We had over 245 people vote in that same precinct. Generally the same people live there. Most of

the people, the average age around there is about fifty-five -- fifty-four years old. They've been there a good while.

Q. To what do you attribute this increase in political awareness and registration?

A. Well, it's a number of things, but I think the most important thing is that somehow that community has come together, and somehow the people from that community feel that if informed and if someone cares about their situation, then they should be participating. The fact that a lot of people have gone out to do voter registration, have gone out to talk to them about the bond election, to talk to them about the cable T.V. issue, they've become to a great extent involved in the political situation.

Q. Representative Reyes, how do you view your position as a State Representative?

A. Well, I take a real strong stand toward the social problems of people. I think that my job as a legislator would be, if you look at it on percentages as I do, I would have to say that I would want to spend about 20 percent of my energies and my time dealing with legislation and dealing with the Legislature and about 80 percent of the time or 80 percent of the energy dealing with the local problems of the people in the district.

Let me cover some of this and try to explain one of the reasons I feel that that's so important that you spend so much time in that district. I am able to do it, because I have a very defined constituency, and my constituency to a great extent knows that I am responsible to them. I spend a lot of time working on local problems, and I'm really worried about the situation, not just in Houston, but all over the state.

Q. Do you have some specific examples of local problems that you are particularly aware of, because you live in that district?

A. Well, I would say that the problem with a lot of the people in that district and a lot of the people in that district not participating in the past is because they have never really been involved in the situation. With an office and the time we spend in the district we have run into a lot of people and a lot of their problems?

Q. You have an office in the district?

A. Yes, it is centrally located in the district.

Q. Prior to your election did anyone ever have a political office in the district, a permanent political office?

A. No, most of them were out in some office complex next to the Gulf Freeway, I think. I think that some of the problems that were local you have to work at

for two or three purposes. One would be to, of course, keep the constituency informed, and another is just generally to take care of the problems that people have there. I have people that call me at 2:00 and 3:00 o'clock in the morning. The most recent one was a mother that had a son in the County Jail who was an epileptic, a minimal brain damaged kid, and she called me and said, "Mr. Reyes, my son has been in jail three days, and he's supposed to be taking his medicine that he has to take for his condition, and the doctor at the County Jail is giving me such a hard time and says that if he gets sick he is just going to take care of himself." Well, I called the Sheriff in the county and just told him that I was outraged at that situation, and about thirty minutes later I got a call back from the doctor himself, and he told me that he was going to have a lieutenant waiting downstairs for that mother to come and bring that medicine so that they could have it administered to that boy. Now, this would have been about two or three days after she had started her inquiries about trying to get that situation taken care of.

Q. It's important for someone to be able to pick up the phone and say,"This is Representative Reyes. I've got a problem. I want you to listen to it." Is that right?

A. It's very important, because a lot of the people in the district have really gotten fed up with politicians in the past making a lot of promises and not really delivering, not really getting down and dealing with their problems, their little problems, the problems of driver's licences, old age assistance, their problems about Social Securit and to a lot of people they are very little and very minor problems that are irrelevant, but to these people that would mean the difference between eating one month and having the same food to eat th next. I think that aspect of my involvement as far as the Legislature is the most important, because I now see a lot of people that have been disenfranchised with the political system and with the system in general. I now see them participating. I now see them involved in the situation. A lot of senior citizens in my district have gotten -- I don't know -- just gotten a new lease on life, as far as I'm concerned, because they feel that someone cares about their situation and someone that they elected.

I think that in the future you're going to see a lot of involvement as far as these people are concerned.

Q. Representative Reyes, one of the bills you carried in the Legislature at the last session was a bill to allow taking of the driver's license test in Spanish.

Can you elaborate on the reasons behind that bill?

A. Yeah, that's a very important thing, and again, it's very minor to most people, and most people in the Legislature just really weren't turned on. It was not a major thing. It was minor. It wasn't minor to me. I felt that it was one of the most important things that I have ever done, because my dad can't read, and he was in a situation on his job where he was going to lose his job if he didn't get his commercial driver's license, and he had been with the railroad for about twenty years. The family went through a complete crisis, because we didn't know whether he was going to have his job next week, whether he was going to be able to finish paying for the school for the eight kids that were in school at that time or what. We didn't know how he was going to learn or how he was going to be able to pass that exam, so he went and he got every available commercial driver's license examination, and he memorized them. It took him three months to memorize them.

The kids at that time were in the 6th,7th and 8th grade, and we translated for him. Took him three months to memorize the exam. He went down there and took it and passed it. He got his driver's license, so I felt that that kind of a situation wasn't necessary, that there was a lot of folks all over that city and all over this

state that were in the same situation, were having the same problem or were going to be faced with it down the line, and I just felt that it was very important to do that, not just for my dad or for that situation, but for the people that were going to be faced with that in the future.

Q. Representative Reyes, we have had several legislators testify both by deposition and live in that case referring to the fact that they voted in favor of the bilingual education act in the last session of the Legislature. Was that a hard bill to vote for?

A. No, it wasn't hard at all. It was like motherhood and apple pie at the time.

Q. Why was that?

A. Well, it didn't have any money. I mean if we had spent $20,000,000.00, I could understand it.

Q. How much money did the bill have in it?

A. $3,000,000.00 a year.

Q. For the entire State of Texas?

A. For the entire State of Texas and that might cover the gas for two or three people and the salary, but it really didn't have any teeth in it. I think, and I don't mean to say that we haven't gone forward in that direction, and I know that it is progress, but it is something that should have happened twenty years ago. It is funded at a measly $6,000,000.00 at this point. I think it is very

slow as far as progress is concerned.

JUDGE GOLDBERG: Did the driver's education bill pass?

THE WITNESS: Yes, sir.

JUDGE GOLDBERG: What was the vote?

THE WITNESS: It went on the consent calendar, sir.

JUDGE GOLDBERG: In other words, there was no real opposition?

THE WITNESS: None whatever.

Q. If bilingual education had been adequately financed in your view, would it have passed the Legislature?

A. If we had financed it for $20,000,000.00 or so, it would have had a very hard time passing the Legislature.

MR. BLACK: Your Honor, this is sheer speculation.

JUDGE GOLDBERG: I think you're going awfully far with this. I think it is interesting, extremely interesting, but I don't know how determinative it is to anything before the Court. Maybe you can explain it to me.

MR. KORBEL: Well, Your Honor, the reason we're offering this witness, the State in their deposition---.

JUDGE GOLDBERG: There are a lot of reasons for this witness. I'm not discounting his testimony. I'm just talking about the details of the legislative process.

MR. KORBEL: Oh, I see. I'll move on, Your Honor. I'm sorry.

Q. Now, the legislature is going to be sitting as the constitutional convention in January. Is that correct?

A. Yes, January 8th.

Q. Is the question of multi-member or single-member districts going to be considered by the constitutional convention?

A. There's a section in the proposed Constitution that would call for single-member districts within the senatorial districts that would also be single member.

Q. You know what the makeup of the Legislature is. Do you have an opinion as to whether or not there is a chance the single-member districts might be adopted by the Legislature?

A. Oh, I could base my opinion on the vote we took on the last redistricting bill -- three different votes we took on the last redistricting bill, and I don't think it will pass.

JUDGE GOLDBERG: What were those votes?

THE WITNESS: They were votes to allow the author in the last three or four days of the Legislature to introduce a redistricting bill, and we held about 41 votes on all three of those votes.

Q. Forty-one out of a 150, as you see it now. Is that right?

A. Right.

Q. By the same token, do you suppose that if this Court were to order single-member district elections for some or all of the multi-member districts under consideration, would this seriously impair the ability of the representatives to participate in the constitutional convention?

A. I don't see how it could.

Q. One last question, Representative Reyes. When Harris County had multi-member districts, did you ever give consideration to running for the State Legislature.

A. I could have never afforded it.

MR. KORBEL: I have no further questions.

JUDGE GOLDBERG: Anyone over here (indicating)? Mrs. Levatino?

MRS. LEVATINO: Liz Levatino, Attorney General's office.

CROSS EXAMINATION

BY MRS. LEVATINO:

Q. Mr. Reyes, would you say that Houston or Harris County is typical of most of the legislative or cities in the state, legislative districts or cities in the state?

A. No, I don't think so. They are all single-member districts in Houston.

Q. I'm not talking about -- well, do you think that Houston and some of the problems contained in a city of well over a million people are the same as problems that may be in such cities as Edinburg, Lubbock, Nueces -- or Corpus Christi?

A. I think in minority communities they are just about the same because of the migration flow from those cities into Houston.

Q. Do you think that the fact that under the prior Houston or Harris County districting scheme that you had in excess of 18 members, I believe, running generally at large, even though there was some breakdown, would be much different that in a district where you had only 2 members running?

A. At large?

Q. At large.

A. I think the situation would be similar to that.

Q. Then it is your opinion that a person who went to vote in a primary, in the Democratic primary, for only candidates running for two places would be put in the same situation as a person who was voting for candidates in a primary with up to eighteen places?

A. Yeah, I think that would be the situation.

Q. O.K., I would just like to check one other thing. You mentioned the redistricting bills that were brought up during the 63rd Legislature before the House.

A. Yes.

Q. Are these the ones that you were referring to where they were attempting to make single-member districts in Tarrant County?

A. Yes, uh-huh.

Q. And you also mentioned this bill was brought up -- a point of order to bring the bill up without going through the normal committee processes. Is this true?

A. No, it went through the normal committee committee processes. It was just that in the last days of the Legislature in order to bring it out of order on the calendar you have to have two-thirds of the vote.

JUDGE GOLDBERG: Mrs. Levatino, would you

pardon me for interrupting. I have a note that if there is a man in the courtroom by the name of Warren Gonzales, San Antonio, his car is going to be ticketed and impounded by the Austin Police Department for blocking the alley at the back of the courthouse. Thank you very much.

MR. RICHARDS: It's not in Judge Roberts' place, I hope.

JUDGE GOLDBERG: Well, I don't want -- I'm sorry to delay the tour we're on.

(LAUGHTER)

Q. But in getting the bill before the House floor, it did take a two-thirds vote, rather than a simple majority vote, did it not?

A. Yes, to get it out of the regular order calendar.

Q. And by how many votes did that particular move fail?

A. Oh, I would say about six.

Q. By six votes?

A. Yeah, you had to have two-thirds, and we had about 41 or 42. It varied.

Q. So if it hadn't been for that two-thirds requirement the bill would have passed the House?

A. Well, a lot of bills would have passed the

House if it hadn't been for the two-thirds requirement.

MRS. LEVATINO: Thank you. No further questions.

JUDGE GOLDBERG: Mr. Gladden?

MR. GLADDEN: Yes, Your Honor. I didn't intend to cross this witness, but since Tarrant County came in the picture, I would like to ask the gentleman something.

CROSS EXAMINATION

BY MR. GLADDEN:

Q. Mr. Reyes, in connection with this, the normal procedure for the introduction of legislation and the passage of legislation does not require a two-thirds vote in the House at any stage if it goes through the normal process. Is that not correct?

A. Right.

Q. And if a bill had been introduced in accordance with the mandate of this Court early in the session and gotten a low enough number and been processed through the committee procedure, it would have been out and on the calendar and taken up in its usual order of business. Is that not correct?

A. That would be correct, but during the first part of the session no one really tried to get a bill through. They were all waiting more or less on the Court.

Q. They were waiting on the Court?

A. Yes.

Q. I think they've been waiting on the Court for several years, have they not?

A. We have.

Q. In that connection also, in terms of processing---.

JUDGE GOLDBERG: What Court?

(LAUGHTER)

JUDGE GOLDBERG: You mind asking him?

Q. What Court were they waiting on?

A. I think at that time it was Supreme Court that was ruling on it.

JUDGE GOLDBERG: I see. Thank you very much.

Q. In connection with the process and procedure that was followed, Representative Finney was on the redistricting committee, was he not?

A. He was a member of it.

Q. He also was Chairman of the State Affairs Committee, was he not?

A. Yes, he was.

Q. As Chairman of the State Affairs Committee,

are you familiar with any legislation that Mr. Finney wanted to get up and onto the calendar that he didn't get up, other than this bill?

A. No, I'm not. I didn't follow State Affairs that closely.

Q. State Affairs is probably the most powerful committee in the House---.

A. I wouldn't say that.

Q. ---except for taxes---you wouldn't say that?

A. I wouldn't say that. Appropriations, calendar committees -- that's what kept him from getting his bill up before the House.

Q. The calendar committee kept that bill from coming up?

A. Well, if he had been Chairman of that committee, he wouldn't have had any problems.

Q. Do you feel like that there was any real serious effort made by the last Legislature to bring up and take into consideration the possibility of single-member districts?

A. I don't think there was a serious effort to bring up an equitable plan. My objections-- I was on the Reapportionment Committee, and my objection to the plan that was submitted by the Tarrant County people was that it gerrymandered the Mexican-American community so horribly.

Q. Actually, that bill was just to take care of each other, was it not, rather than the community?

A. I don't know what their intentions were for carrying that kind of legislation, but my opposition to it was that it cut our community in that city in four different places.

MR. GLADDEN: I believe that's all. Thank you.

MR. KORBEL: I have nothing further, Your Honor.

JUDGE WOOD: May I ask one question?

JUDGE GOLDBERG: Surely.

EXAMINATION

BY JUDGE WOOD:

Q. Mr. Reyes, there have been repeated reports in the media that there is a possibility that the Legislature, acting as a constitutional convention in January of 1972 (sic) may act with reference to single-member districts or to decrease the size of the multi-districts to comply with the proscription of the Supreme Court in this case.
What is the present plan as far as you

understand it, of the Legislature that have been proposed that have some possibility of being adopted by the Legislature sitting in constitutional convention?

A. I think at this point---. Again, I would have to base my remarks on what happened in the last Legislature -- I think that this point we're going to get very little or the least amount of single-member districts as possible. I think that the last time around people were willing to just barely give, as far as the single-member districts were concerned.

Q. I understand that, but there are several proposals that have been made, one of which would decrease the size of the multi-districts to something within the confines of the present size of the senatorial districts and divide them in that basis to further come within the proscription of the Supreme Court in this case which was decided earlier or to create single-member districts. What is the one that you feel has the best chance of being adopted, if one is the best plan, or do you have any thought on it?

A. At this point I wouldn't think with the composition of the present Legislature we wouldn't get single-member districts.

Q. All right, that leads me to my last question. Is there a possibility that the Legislature by its own

action, acting as a constitutional convention, could it adopt a single-member plan or a multi-district plan that meets the requirements of the Supreme Court in January of this year that would render this case moot?

A. I don't think so.

Q. How soon will we know that? In other words, they're going to meet in the early part of January. I think it's the 6th, isn't it?

A. The 6th or the 7th, somewhere around there.

Q. 6th or the 7th, all right. How long in your opinion will it be that they render the decision that would render this case moot?

A. It still has to be approved by the voters.

Q. I understand that.

A. Before you know they have done anything in the Legislature, it will be ninety days.

JUDGE WOOD: All right, that's what I wanted.

EXAMINATION

BY JUDGE GOLDBERG:

Q. Mr. Reyes, you know something about the Mexican-American communities generally in the metropolitan areas of Texas.

A Yes, sir.

Q You have stated it is your opinion, I think, that in Harris County the Mexican-American under multi-member districts did not have access to the political operations of Harris County and in the legislative races in Harris County, right or wrong?

A That's right. We not only---.

Q I understand. Just let me present the question. Based on your knowledge of the Mexican-American community in other large metropolitan areas, such as Fort Worth or Nueces County and others, based upon what you know about the community, based upon the legislative bills that have been presented or not presented to the Legislature, is it your opinion that the Mexican community does not have access to the political machinery operative in the legislative field in the State of Texas?

A That is my opinion.

JUDGE GOLDBERG: Thank you.

JUDGE JUSTICE: Is there anything else, gentlemen?

MR. KORBEL: I have nothing, Your Honor.

FURTHER CROSS-EXAMINATION

BY MRS. LEVATINO:

Q Mr. Reyes, in regard to a few things that were just brought up, you stated in your first testimony that you felt that the Mexican-Americans in Harris County and especially in your district did not vote generally. They were not active in the political process. Are you aware of any overt or covert attempts to prevent them by the Democratic or Republican party from becoming active in this process?

A Well, the only one that I could cite was the first time I went with my dad to vote, I guess in about '58 or '59, and he couldn't speak English very well, and when he went to vote, he asked the precinct judge for some help, and he laughed at him, and he didn't vote for the next ten years. That kind of stuff was around.

Q Are you aware of whether or not any overt or covert attempts to prevent Mexican-Americans from voting or becoming involved in the elective slating processes that existed -- are you aware specifically in any other area of Texas other than where you live?

A No, I am not.

MRS. LEVATINO: Thank you.

MR. KORBEL: I have nothing, Your Honor.

JUDGE GOLDBERG: Any other questions? Step down, sir.

(WITNESS STANDS ASIDE)

MR. RICHARDS: Charles Miles.

JUDGE JUSTICE: Does this relate to Travis County?

MR. RICHARDS: Well, yes, Travis County and to a certain extent statewide.

MR. KORBEL: I have a witness to prepare. May I be excused?

JUDGE GOLDBERG: I can't hear you.

MR. KORBEL: I have a witness to prepare, Your Honor. May I be excused?

JUDGE GOLDBERG: Yes.

MR. RICHARDS: In this connection, Your Honor, we do tender this witness with respect to Travis County, but because he is also an employee of the Civil Rights Commission, he has some statewide exposure, so there will be some questions with statewide implications.

CHARLES MILES,

a witness called by the Plaintiffs and Intervenors, having been first duly cautioned and sworn to testify the truth, the whole truth and nothing but the truth, testified as follows:

DIRECT EXAMINATION

BY MR. RICHARDS:

Q Could you give us your name, please, sir?

A Charles Miles.

Q You can pull that microphone closer, Charles. How old are you.

A Thirty-five.

Q Where were you born?

A Hearne, Texas, Robertson County.

JUDGE JUSTICE: You need to pull the microphone closer or speak louder, please.

Q Let's see, Charles. When did you first move to Austin?

A 1956.

Q Was that as a student at the University of Texas?

A That's correct.

Q And you have lived in Austin continuously since 1956. Is that correct?

A Yes, I have resided there.

Q Are you a graduate of the University of Texas?

A Yes.

Q After graduating from the University of Texas, what was your first employment?

A Taught in public schools in Austin, Keeling Junior High.

Q Over what period of time did you teach at Keeling Junior High?

A 1960 to 1965.

Q Where is Keeling located just generally in Austin?

A It's located in East Austin on Pennsylvania about eight blocks east of the Interregional.

Q When you say East Austin, what do you mean by that?

A Well, I mean the predominantly black part of East Austin when I say East Austin going from 6th Street, all the way east probably to the county line and up to Interregional, cutting across around 38th and then on up beyond Manor Road to the county line seat.

Q Is all or virtually all of the black

population of Travis County concentrated east of the expressway or Interregional Highway?

A It is.

Q Was Keeling all black when you taught there?

A Yes.

Q When you ceased teaching at Keeling, where were you employed next?

A Gary Job Corps Training Center in San Marcos.

Q Just basically what was that employment? What kind of work was that?

A I was a teacher and counselor in the Job Corps at the Job Training Center for government-sponsored job training for young people from all over the country, young male adults 16 to 21.

Q And from the Gary Job Corps what was your next employment, Mr. Miles?

A Executive Director of the Austin Human Relations Commission.

Q Was that a municipally created human relations commission here in Austin?

A That's correct.

Q Over what period of time were you employed as Executive Director of that commission?

A 1967 to 1969.

Q And you are currently employed where?

A With the Southwestern Regional Office of the United States Commission on Civil Rights.

Q That Regional Office is in San Antonio, isn't it?

A It is.

Q But you still maintain your residence here in Austin. Is that correct?

A That's correct.

Q Speaking generally, just as a matter based on your experience across the state, have you observed any similarities with respect to the black communities across the State of Texas that you could say were typical of the black communities across the state in urban areas?

A Well, for the most part they are located in solid areas in one section of the city. That's true in Austin. Of course, we have pockets in other sections that exist, and once you get beyond the location, the similarities become the same. You have for the most part run down communities, dilapidated, poor city services, poor housing, difficulty getting access to the process to get anything done about these problems, and for the most part the black communities have their own institutions that don't reach out of the black community to any extent.

Q By institution you mean what sort of things?

A Churches, social clubs, just everything that

makes up a community.

Q Have you noticed or can you comment about the frequency or lack of frequency of physical barriers that typically affect or isolate the black communities in urban areas?

A Well, for the most part there is some type of physical barrier that exists. It might differ in the type. In some cases it might be a railroad track. Some cases it might be a freeway. Some cases it to some extent might be a river, but for the most part it is some type of barrier. In Austin you have the freeway, you have the University of Texas, the State Complex and the downtown area that separates the black community from the rest of the city basically.

Q In Austin I think you have generally given us the confines of the black community. In the period of time that you have lived here, as you have observed it, has the black community become more or less concentrated in a single area in Austin?

A It has become more concentrated. It has become larger. It has expanded basically east, to a small extent northeast, but basically east.

Q What has contributed, as you have observed it, to this increasing concentration?

A Well, several things. One important thing

is the fact that most of the institutions, as I stated earlier, are located in East Austin. Most of the things the blacks belong to, most of the things that blacks use, such as churches, are located in East Austin, and the schools were segregated up until sometime in the late '50's, so most of the blacks, no matter where they lived, went to the schools that were located in East Austin, and in that way, because of the difficulty in getting transportation, most of the people wanted to move into the community where the school would be relatively close.

There has been a great deal of public housing in Austin built in the last 15 years, and all this housing to my knowledge has been built in East Austin.

Q Was this segregated public housing in Austin?

A Yes, it is still for the most part segregated.

MR. RICHARDS: In this connection, Your Honor, we have an exhibit in evidence with the findings from the District Court of Judge Roberts here in the Blackshear case which will in more detail set forth the segregation of public housing in Austin, and it is an exhibit in this action.

JUDGE WOOD: For the record, what number is it?

JUDGE GOLDBERG: Give it to the court reporter.

MR. RICHARDS: Yes, it is marked, and I'm

sorry. It is our exhibit, Wright Exhibit 22.

Q Were there black pockets, black residential pockets, in Austin that were outside the East Austin area at one time?

A Yes, you have a pocket in South Austin, another pocket called Clarksville that is located in West Austin.

Q What has happened with respect to Clarksville?

A Well, it's almost gone. Most of the people have moved out for various reasons. One of the reasons, of course, is the fact that the schools that they attended were in East Austin. The second reason, a very important reason, was the fact that the freeway, I think it is called the MOPAC or Crosstown -- I don't know exactly which one -- is running directly through Clarksville, and, of course, all the people are going to have to move whether they want to or not, and most of them are moving to East Austin.

Q Characterize, if you will, for us the Clarksville area with respect to services, curbs and gutters, drainage facilities, in the black area we're talking about.

A Well, it's totally dilapidated. I mean the streets aren't paved. There are no services, and it appears it was just completely ignored deliberately. Most blacks feel that it was deliberately ignored in an effort to get these blacks out of Clarksville. That's what it amounted to.

Q The Clarksville area actually abutted or was adjacent to an affluent white area off of Enfield Road in Austin. Is that correct?

A Yes, probably the most affluent area in Austin.

Q I gather the streets in the Enfield area were all paved, were they not?

A They are.

Q But I take it to this day in the Clarksville area to the extent the residents are still in Clarksville, the streets are still unpaved, aren't they?

A That's right. That same thing is basically true for another area I didn't mention called St. Johns located in Northeast Austin. It has the same situation with the exception of they did run a freeway to the edge of St. Johns, but for the most part it has been left there to deteriorate to the extent the houses---.

Q Well, we drove through St. Johns last week, did we not?

A Yes, sir.

Q And to get to St. Johns, to the St. Johns area, which is all black, is it not?

A That's right.

Q You drive through an area of white middle class housing. Is that correct?

A That's right.

Q Can you differentiate for us, if you will, the quality of the streets in the black area of St. Johns, as distinguished from the white area, as you approach it?

A Well, the streets aren't paved at all in St. Johns except the one street that runs through St. Johns that leads from the freeway to the predominantly white area adjacent to St. Johns. Obviously, the city does not enforce any of the codes, because much of the housing is dilapidated, and I'm sure that really people shouldn't be living in much of the housing that exists in St. Johns, so, obviously, the codes aren't being enforced and just the general -- it just looks like the area has been completely forgotten, and I think it has been forgotten deliberately by the city, because it is a sore spot to that area, and they would rather see it go than to be there.

Q You say they. The feeling is the city---.

A The people who make the decisions for the city, not necessarily just the City Council.

Q Is that generally the view of the black community in Austin that the St. Johns and Clarksville areas have been deliberately ignored as an attempt to freeze them out?

A Yes, that's the view of the mass of the black community.

Q Based on both your experience in Austin with the Human Relations Commission and your work in Austin, what would you say with respect to the status of the Mexican-American community as regards the areas we have talked about, housing and employment and that sort of thing?

A I think it is very similar, basically the same. I'm not sure about the pockets, whether or not they have as many pockets with regard to the Mexican-American, but the area where the mass of the Mexican-Americans live is adjacent to the black area, and you can't tell a great deal of difference where you go out of one into the other. If you take Montopolis, which is in Travis County, you could consider it somewhat of a pocket of black and Mexican-American. The streets aren't paved in much of Montopolis. It took a great deal of effort on the part of a priest out in Montopolis to get anything done about that area. They have gotten a little done, but not much.

JUDGE JUSTICE: What are you calling that?

MR. RICHARDS: Montopolis, M-o-n-t-o-p-o-l-i-s.

Q You have told us a little bit about it, but what is the pattern with respect to black social, business and religious institutions in Travis County? Where are they located, and what is their makeup?

A Well, first of all, they are all black. Of

course, we can start with that. Then they are basically located in East Austin. I'll take the church, first of all. You have numerous churches in East Austin, especially Baptist churches, and they are all black. It is an important institution. Most of the inter-church activities are between the churches that are located in East Austin, and most of the other social civic type of activities are centered around such things as social clubs, social fraternities, some things like that, and basically they are -- well, not basically -- they are all black, and in some cases they have founded -- I think they have a Lions Club and Kiwanis -- not Kiwanis, but Optimist Club in East Austin.

Q Black, of course.

A They're black also, but all the institutions in Austin that are black are in East Austin, and they don't reach across into the other sections of the city in any fashion.

Q What about the white parallel institutions, and the fraternal and business organizations, the clubs, the churches?

A Well, just the opposite, as far as I know. Basically, they are all white, and in a few cases a few blacks have been admitted to some of the predominantly white fraternal groups, civic clubs and things of that nature, but not the mass of the blacks. In other words, the blacks

who have been admitted were people who were picked to be admitted by those members of that organization, not the -- it's not just a walk-in thing for blacks. I think in some cases the people have to be sponsored by some of these organizations, and, of course, there's not a great many blacks who are sponsored by whites who belong to these organizations.

Q As you have observed it just bluntly, to what extent, as you have seen it, is the white community of Austin even aware of the black community in terms of its leadership, institutions and its activities?

A I don't think the white community is very aware. I think they are aware at the level that they think they are aware of the leadership and so forth in the black community, but for the most part the white community is not aware and is not conscious of the real leadership that exists in the black community. There are certain people that invariably time after time will be tapped as a black leader, but the people who really have the most influence with the black people in the black community are many times not even known by the white community, even the white leadership.

Q What you are saying is that the communities are so spearate that it is perfectly natural that there could be significant community leaders in the black

community who are utterly unknown in white Austin.

A There are community leaders in black Austin unknown in the white community.

Q Has the presence of the State government in Austin as a source of employment been of any significant benefit to blacks in Austin, as you have observed it?

A Not significant, because most of the jobs that the blacks have been able to get in State government are very menial type of jobs, custodial type jobs. For the most part I would say that blacks have been eliminated by such things as tests, and even more importantly, the way the State goes about hiring people. That is, they don't have the centralized personnel agency, and word of mouth is used a lot, as I understand, and since blacks aren't in the clubs and the places where these people communicate and get this type information, blacks are excluded from meaningful jobs in State government.

Q Does the patronage system work here too?

A I think it does. I'm sure it does.

Q Have you been active at all, at least up until the time you went to work for the Civil Rights Commission, in politics in East Austin and in Travis County?

A Yes, I was up until the time I went to work for Civil Rights.

Q Were you active, for example, in the campaign

of Mrs. Delco for the school board?

A That's correct.

Q Have you been politically active in Travis County?

A Yes.

Q Based on your experience and observations in your political activities, to what extent have blacks in Austin participated in the political processes in this county?

A Except for voting to some extent, and not enough of that except in the Presidential election, the black voter turnout is very low, but except for that, I really don't see much of a role that blacks have had with the exception of the Delco campaign where we had a great deal to do with choosing her to run for the school board, but other than that, blacks have had very little to do with the selection of candidates. I think that is the main point, and usually the first time much of the black leadership -- I think most of them would agree that the first time they hear about decisions being made, I guess, in a smoke-filled room, is many times from black waiters who work in clubs, who are usually pretty well-educated people. People just talk around them freely, and many times that's the first time we hear about who let's say the Democratic party intends to push for the Legislature, push for a judgeship

and things like that, so we really don't have beyond voting and beyond politicians coming and asking blacks to help push, to campaign for them, we really don't have much of a role.

Q Stuart Long, since you mentioned the Delco race, Stuart Long testified yesterday, and he attributed Mrs. Delco's victory in a large measure to the fact that the election came immediately after the assassination of Martin Luther King. Is that your opinion also?

A That's right.

Q But for that event, you think she would not been successful?

A I don't think she would have won, had it not been for that.

Q One of the aspects we talked about the other day was in relating to the Legislature. As you see it, over the period of time you have been here, has the Travis County legislative delegation been -- or how has it performed with respect to the needs of the black community and the particularized needs of the black community, well, poorly, how?

A I don't think that the delegation meets the need of the black community. I don't know to what extent it is a deliberate exclusion on the part of all of them, but most blacks don't even expect white members of the Legislature

who represent the entire community where you have about 12 or 13 percent black to really get out and push legislation or create legislation that is needed by the black community. Most blacks will talk to Representative Ragsdale who used to live in Austin -- I don't think he is a native of Austin, but he lived here for quite some time.

Q He is a black legislator from Dallas County.

A That's correct. They'll talk to him about legislation they need or give him ideas about things that are needed in the black community. One of the reasons is because he is around in the black places, you know, with the black clubs and the bars and places where black people meet. He's around those areas---.

Q Not having a drink, of course, just in there socially.

(LAUGHTER)

A So, you know, people will rap with him about the needs of the community, rather than calling up a delegation from this county to talk to them about what is needed.

Another thing, I really don't think -- it is pretty hard for a white member of the Legislature, white member of the delegation, to really get information that he or she really needs. For example, a big problem, I think, in Austin, Houston and most of the other cities in the state is the difficulty of ex-inmates, and because of

the ex---.

Q You mean prison?

A Because of the distrust that they have of whites in many instances, they aren't willing to talk, whereas, a black can get a great deal of information about the way he sees changes that need to be brought about in the penal system. It's a matter of trust to some extent. It might not always be warranted, but it is there whether it should be or not.

Q We talked a little bit the other day about the role of the lobby in the Texas legislative process. So far as you are aware, are there any black lobbyists functioning down here in the Texas Legislature?

A I don't know of any. I'm sure there aren't any.

Q Would you attribute in part the lack of performance on the part of the Travis County legislative delgation in any measure to the fact that the black community has no leverage on the delegation to speak of?

A That's true. See, the way it is worked in some cases, when the choices aren't very clear, well, many times many people who are running for public office will, at least many black people think -- I'll put it like that -- put money in the hands of a few people to run the campaign and to hire people to work for them, and it doesn't make

very much difference who wins. Therefore, the person who is able to buy the most workers---.

Q In the black community?

A ---in the black community will get the votes. Now, I think an important thing, the reason many blacks don't have leverage on politics, for one thing, politicians won't ask blacks for his money. I don't know of very many cases where they have. This is the one thing that most politicians do not ask anyone in the black community for, money to help finance a campaign. I think that is very important. Well, the way it works in this country and in most countries is that if you have money in something, you have a stake in it, and I think people, politicians, are more inclined to pay their debts to people who have contributed a great deal of money to their campaign off much quicker than they are to pay their debts to people who have given other type of input.

So this is one area that blacks don't have any leverage, not so much because blacks wouldn't contribute money, but for some reason politicians never ask blacks for money. For one thing, they think they don't have any, and the second reason they don't ask them for is that maybe they would rather not have any money from the black community, because the demands might be a little more intense.

Q Have you observed the continued use in Travis

County of racial campaign tactics from time to time to defeat a Mexican-American or a Mexican-American favored candidate or a black candidate or a black favored candidate?

A Yes, I have especially seen this with regard -- you haven't had many black candidates, first thing, but I can remember vividly the candidate, Gonzalo Barrientos, when he ran.

Q Let me approach you, and I'm going to hand you what is in evidence as Moreno Exhibit 25. Is that correct?

A Yes.

Q Is the number 25?

A Yes.

Q You had reference to the campaign of Gonzalo Barrientos for the Legislature here in 1972, did you not?

A That's correct.

Q I have handed you there what is a transcription of the television tape used by his opponent just before the election. I ask you to glance through it and see if you recall hearing that and seeing that on television here during that election?

A That's the same statement that I heard. I hadn't read it, but it's the same.

Q Then in your view -- this is one, as I recall, in which the opponent utterly out of context attempted to

link Gonzalo Barrientos with a statement by some relatively radical Mexican-American talking about squashing Gringos like a bug. Is that the tape?

A That's correct.

Q That is what you consider to be a specious campaign tactic?

A There's no question about it. I mean it's the timing of it. All of this had a great deal to do with it too. It appeared Barrientos was about to win the race, and it definitely appealed to prejudice against, in this case, the Mexican-Americans.

Q Barrientos was defeated. Is that right?

A He was defeated.

Q Did he receive substantial support in the black and Mexican-American communities of Travis County in his race?

A Yes, he received a great deal of support in both, probably up to 95 percent of the votes in the black and Mexican-American community, and probably this statement encouraged a greater turnout on the part of blacks and Mexican-Americans because of resentment of this type tactics.

Q But it still was not adequate -- that turnout was not adequate---.

A It produced a great deal more turnout in the rest of the community too.

Q What about the financial implications, as you see it, for the at-large legislative district for an aspiring candidate out of East Austin if he chose to run for the Legislature?

A Well, I think it is almost impossible for a black to get the money, if they spend it at the rate that they have been spending it, to run a campaign for the Legislature. This is for several reasons. One of the reasons is that the institutions in the black community don't reach out of the black community to a large extent, and the institutions in the white community---.

MR. BLACK: Your Honor, may I get this statement to be reading while he's testifying?

MR. RICHARDS: Sure.

A The institutions in the white community aren't available to the black community. I mean the places where you meet people that enable you to get money, blacks just aren't in those places. It takes a tremendous amount of money to run a county-wide or district-wide race. It's just not there for the blacks. Secondly, if a black is a very popular black within his own community, the chances are if he is willing to accept the terms much of the white community wants to give him, wants him to run on, then he'll turn his own community off, so it's just an impossible thing. Either you go this way or that way (indicating).

I think Mr. Tommie Wyatt, who ran for County Commissioner, has some information. Although this was not county-wide, on that type of thing, so a good black candidate who has the confidence of the black community is not able to get money from the total community, because he cannot accept the terms the total community wants him to run on to a large extent, and if he accepts those terms, he's going to be doing things the black community is not willing to accept him on, so it's almost impossible.

JUDGE JUSTICE: You're speaking rather in the abstract here. What kind of terms are you referring to?

THE WITNESS: Well, I mean in order be popular within the black community, there are certain things that you just have to push pretty hard for in the area of civil rights issues and things of that nature, for example, the local President of the N.A.A.C.P. who pushes hard for civil rights. If he wanted to run for political office, he would get 100 percent in the black community, but if the larger community would tell him, "In order to get the money you need to run, you will have to soften up on this, or soften up on that, because---."

JUDGE JUSTICE: Civil rights, specifically?

THE WITNESS: Some areas of civil rights, yes, and it is a dilemma, and it's almost impossible.

Q Do you find this question of single-member legislative districts is a matter of importance in the minds of black citizens in Texas and Austin?

A I think it is extremely important, because of the desire for representation that is closer to the community and closer to the people, and they feel it is a good chance of getting more blacks from their districts into the Legislature and, consequently, they will have better representation in the Legislature. It's extremely important to the blacks.

Q Well, what happens is---. Do you see what happens to black issues or issues whether spoken for by black or white in the at-large district?

A As I said earlier, I think the black issues are lost, because they aren't ever developed or created, in the first place. This is a big problem, the fact that since you have single-member districts in some cities, and you have about eight, I think, black members of the Legislature, you have really had some black issues developed, because the black members of the Legislature see this as their big job. I mean they are representing their district. They have got to do some research and find out, "How do we

get to the solution of this problem? This is a problem that affects the people of my district," and just luckily for the rest of us who live in the State of Texas, it affects us in many cases also, such as state employment. I mean the black members of the Legislature really got down and dug into this, because this was a black issue no one else has been heard in the past to show a great deal of interest in it, because the blacks and the Mexican-Americans were the ones who were getting the short end of the stick on state employment, and I have a feeling that there are numerous other problems that could be solved if someone really had the interest to get down and dig and look into the statutes, statutes that need to be developed, to find solutions to many of the problems on the state level.

MR. RICHARDS: That's all the questions we have.

JUDGE GOLDBERG: Mr. George?

MR. GEORGE: I'm Jim George, for the Republican Plaintiffs.

CROSS-EXAMINATION

BY MR. GEORGE:

Q Mr. Miles, following up two things that Mr. Richards brought up, you mentioned that during this last legislative session black legislators raised the issue of discrimination by state governmental agencies on the basis of race. Had that issue ever been raised by the legislative delegation of Travis County prior -- has it ever been raised by the delegation from Travis County?

A I'm not sure, you know, about the Travis County delegation. It has been talked about some before, but I mean for the first time someone really got down, rather than just talk, they got down and started digging.

Q And conducted a legislative investigation to find out how many black employees were in state government?

A Started asking questions to agencies, agency heads, as to why they weren't doing anything about it for the first time.

Q Got reports back and that kind of thing?

A Right.

Q Used the office of a Representative---.

A Followed up on it for the first time, rather

than just talk about it.

Q I suspect that state employment is of particularly important concern to the residents of Travis County.

A Very important.

Q To the black residents, as well. It's one of the major employers.

A Right.

Q And is not state employment issues generally, the level of state pay, et cetera, an issue which the Travis County delegation speaks to?

A That's correct.

Q But they have never spoken to the particular black aspect of state employment, have they?

A When you say spoken to, not with the intensity that the black delegation spoke to it. They really haven't shown any interest in really getting down to the solution of the problem.

Q The second area that I would like to talk about---. Were you in the courtroom when Mr. Reyes was testifying?

A At the end of it, I think.

Q Quite briefly, he testified that he was elected by being a member of the churches in his single-member district and being a member of the civic clubs, having

gone to school there and knowing the people there, because he grew up there.

A Right.

Q And I believe you testified the black population of Travis County is approximately 12 percent.

A I think it is 12 or 13 percent.

Q Would a young or old, I suppose, black person who grew up in Travis County and would have gone to school with black persons, would he not, here?

A If he is my age.

Q Would he belong to churches here that were predominantly black and civic clubs and known that community well?

A That's right.

Q And they would have known him?

A That's right.

Q Would he have had that kind of access to the majority community, however?

A No.

Q Could he have been known by the majority white community?

A Well, he could have, but the chances are that he wouldn't have been known.

Q So a twenty-year old, twenty-five-year-old, thirty-year-old businessman or someone seeking a

political career from the black community could not have gone out and belonged to the white Lions Club, the white churches, where the majority vote is.

A Yes.

Q He would have to be known by those communities to be elected, wouldn't he?

A That's right, no question.

Q But in a multi-member district a black person in a segregated society doesn't have that kind of access to the lines to becoming known and the lines to political careers.

A No, it's just not there.

MR. GEORGE: That's all I have.

MR. KORBEL: George Korbel for the Plaintiffs Moreno et al.

CROSS-EXAMINATION

BY MR. KORBEL:

Q First of all, I would like to ask you whether or not with respect to Mexican-Americans in Travis County, I suppose they likewise have racially or ethnically identifiable organizations that they belong to. Is that correct?

A That's right.

Q And they for the most part do not belong to the downtown-type organizations. Is that correct?

A That's correct.

Q So they would have the same problems with these lines of communication.

A Same problems.

Q Now, in your position with the Commission on Civil Rights do you receive complaints about discriminations state-wide?

A Yes, first, we do receive quite a few complaints. We aren't a complaint-handling agency, but most people think we are because of the name of the agency. We receive them, and sometimes we investigate them, but for the most part we refer them to the agency that is responsible for enforcing those -- that specific law.

Q Do you still find complaints about discrimination in public facilities throughout the State of Texas against Mexican-Americans and blacks?

A Yes.

Q Do you still have complaints about elections by Mexican-Americans and blacks throughout the State of Texas?

A Most in South Texas and East Texas and in some parts of West Texas.

Q Now, when you drove -- Mr. Richards referred

to your driving through the St. Johns areas and the Charleston (sic) area, was that with Mr. Richards, myself and Dr. Cotrell?

A That's right.

Q Did you assist in explaining the city of Austin to Dr. Cotrell so he would understand your point of view?

A I did.

MR. KORBEL: I have nothing further.

MR. CRAWFORD: Phillip Crawford, Chapman et al.

CROSS-EXAMINATION

BY MR. CRAWFORD:

Q Mr. Miles, you testified earlier that you formerly taught in the Austin public schools.

A That's correct.

Q What subjects did you teach?

A I taught World Geography and Social Studies and Civics in the high school.

Q You taught Civics. Would you tell the Court what, if any, difficulty you might have had in trying to motivate the students in this area of Civics.

A Well, this was a high school class in Civics, seniors in high school, and they really have a great deal of interest in National politics, National affairs. I can't remember -- it was a pretty good while ago, but I don't even remember that they paid -- they paid very little attention to State government. They felt that even though it was only about eight blocks away from the school or a little more, they looked upon the State government, the capitol, as being much further away than Washington in terms of getting something done, and some of the reasons is that the State government at that time and to a large extent now was just not responsive to the black community. They looked upon the National government as being the place where we were going to get some redress, and that was during the time that President Kennedy was President, and we had a great deal of interest on the part of black students in National politics and National government in terms of doing something about the problems that existed during that time. That was from '60 to '65. That's about as much as I could say.

You know, there's a great deal of difficulty just motivating period when you're teaching a school that is located in what we would term a ghetto community.

Q Mr. Miles, you also testified that you served as the Executive Director of the Austin Human Relations

Council. Do you recall the history of the ordinance which established that council?

A I remember something about it. I know it was a great battle. I was teaching -- working at the Gary Job Corps during most of the battle trying to get it established. I know there was a great deal of controversy and battling around, trying to get it established. A lot of people didn't want it, and finally, I think, they finally got it through the City Council some kind of way.

Q Do you recall whether or not the version which was enacted had teeth or if it had any powers, or whether or not it was a watered-down version?

A Oh, it was watered down a great deal. I think a professor at the University had written one up that was very strong, and all the teeth were taken out of it by the time they got it established. I do know this, that when I was working with the Commission, that it was very weak. I don't know the whole history of how it got so weak, but it was extremely weak when I was working with it. I do know that.

Q Now, Mr. Miles, you also testified with reference to physical barriers. In your experience in the city of Austin has it been called to your attention that possibly one of the reasons that Clarksville, St. Johns, South Austin and Montopolis was not developed might wel1

have been because of an inability to secure the financing, and it was denied on possibly a racial basis?

A Oh, you know, that's part of the reason -- that's what I meant when I said they -- I guess I should have said what I meant by "they." They just let it stay there, hoping that it would eventually die.

JUDGE JUSTICE: Are you referring to the city officials?

A That's the point I am going to make. When I said "they," I mean the city officials and what I would call the power structure of the city, people with the money. In other words, most city officials don't really have much money, but some bank or some finance company, some mortgage company is going to have to finance redevelopment, you see, and then these financial institutions, along with the public officials, saw to it that nothing was ever done about St. Johns, Clarksville or Montopolis, so I think it was a combination of city officials, along with the people who controlled the money in the city, in combating the development of these projects.

Q One further question. Mr. Miles, on the basis of the education pattern, the physical barriers and the history of the Human Relations Council, would you be of the opinion that the lethargy, the apathy and the lack of concern for politics within the black community lies on

the basis of the discrimination that you have described in a great degree?

A Yeah, to a tremendous extent. I think all of it is very -- another area is -- I guess one example is the difference in the number of blacks that you can get to vote in the Presidential election and the number that you can get to vote in a state or local election. I mean I don't know the figures, but there is a tremendous upsurge in the number of blacks who vote let's say in the 1976 election and the number that will vote in 1974. One of the reasons is that blacks look upon the Federal government to some extent as being responsive to their needs as far away as it is, but as far as State government is concerned they don't see it as being responsive.

MR. CRAWFORD: Pass the witness.

JUDGE GOLDBERG: Any other group on the right?

MR. RICHARDS: I believe that's all from this table.

JUDGE JUSTICE: Is there cross-examination?

MR. BLACK: I'm Tom Black for the Defendants.

CROSS-EXAMINATION

BY MR. BLACK:

Q Mr. Miles, I just have a very few questions. First, on these little pocketed black areas that you have talked about, Clarksville and St. Johns, and the failure to repair them, do you know of any attempts on the part of the residents of that area, on the part of anybody, as far as that goes, to obtain repairs or help for these people?

A Oh, there has been a tremendous amount of effort on the part of the residents of St. Johns. They have had all kinds of civic organizations. I don't know the name of any of them, but I know some of the people that have been working with them and in them, and the same is true for Clarksville. There has been a tremendous amount of effort through the years on the part of the people of Clarksville, Montopolis and St. Johns to get something done about the situation.

Q They have just been ignored? Is that your testimony?

A Well, they have been given some lip service about things that's going to be done, but nothing has ever been done, and I think, as I pointed out earlier, I think it was just calculated to bide time. I think at one time

they were talking about urban renewal. It seemed that that would have been an ideal place for urban renewal if there had ever been one, but for some reason it never got through, they were ignored, and then there was some legislation in the city government that voided certain things, such as a paving ordinance that said that you can't get anything paved unless you have, I think, over 50 percent of the people on the petition, and then if they got the 50 percent of the people on the petition, they said the streets weren't wide enough, that there was no way to pave the streets. They either had to move all the houses back, and the houses were in a shape that they couldn't be moved. All those type of little very complicated things and a strict enforcement of regulations, those type things.

Q Well, I'm afraid I didn't understand what you feel is the objective of these people who are preventing improvement of these districts. Are they trying to make these people move into East Austin, or what is the objective?

A Well, I couldn't say they're trying to make them move into East Austin, but I will say -- I'll just say it like this---. Many people, if there are $100,000.00 houses on one corner, and then on the next corner you have places that are totally dilapidated and unpaved, and then you have a $5,000.00 house, and it's a real sore spot, and someone comes to your house. They drive down the street,

and they see all this, and you're one of the leadership in the community, it's a tremendous reflection on you, and at one time I understand that Clarksville was there because the blacks who lived in Clarksville served as maids and so forth, because the transportation was kind of difficult, you know, during those days, and they were there because they could walk to work from Clarksville over to the people who live say in the $100,000.00 houses right down the street. There's no longer a need for that, because, you know, the maids have cars too now, so they can just as easily live in East Austin and catch a bus or drive their car back and forth to work.

Q Well, just getting down to specifics, can you name me one $100,000.00 house that is within a block of Clarksville?

A I can't name one, no.

Q All right, sir, there's not any, are there?

A I'm not sure. Well, let's say eight blocks of Clarksville. I could probably name quite a few.

Q Well, in perhaps eight blocks you could, but I wanted to be sure---.

A Yes, I may have exaggerated a little in saying a block, but eight blocks would be accurate, I think.

Q But your testimony that they were right next to each other---.

A Well, I would consider eight blocks as right

next to something.

Q Now, the leadership that you talked about in the black community that no one knows about, who are some of those people, Mr. Miles?

A Well, you want me to give you the names of some people?

Q If you would, please.

A Yeah, some people who have tremendous influence on the black people that probably many whites don't know about, there's Dr. Bale at Huston-Tillotson College, Dr. Urdy over at Huston-Tillotson College. A barber named George Walker has a tremendous amount of influence, also a fireman named Ray Davis. Some of these people grew up in East Austin, and the way they feel has a great deal to do with the way other blacks will vote, and I have a feeling that there is a great deal of the -- I don't know if I can consider myself a leader, but there is a great deal of the power structure that don't know anything about me.

Q All right, sir. Of course, you participated actively in city politics in connection with this Human Relations Commission, did you not?

A Well, when you say city politics---

Q Well, I mean you were identified with the city. The city generally knew who you were, I presume.

A I think so, yes.

Q Now, Mr. Miles, a little bit more about this participation of the blacks in state and local politics. Approximately what is the percentage of the registered black voters that vote in the legislative races? Do you know?

I sure don't. It's probably about 40 percent, maybe a little more or less. That's strictly a guess.

Q And do you know what the white participation is? It's about the same thing, isn't it?

A I don't know.

Q 40 percent is a pretty good participation. I mean it's not anything to brag about, but---.

A I was guessing. I assumed you wanted me to guess. You might give 20 or take 20. (LAUGHTER)

Q Let me ask you this, Mr. Miles. This business about greater participation in presidential elections, that's true of everybody, isn't it, whites, blacks, Mexican-Americans? Everybody in all areas get out and vote more when you're voting for the President than they do when you're voting for members of the State Legislature.

A That's probably true, I would imagine, but not just the voting, but I'm thinking in terms of the interest and conversation about it, and I'm sure that's true in the rest of the community too, but I know it's true in the black community.

Q These people that you say are sitting in smoke-filled rooms deciding who is going to run for the Legislature from this area, do you know, for instance, did they choose Sarah Weddington?

A I'm not sure. I never did get the details from the people who were talking about it.

Q Well, you really don't know that that happens or that exists or anything about it, do you, Mr. Miles?

A I don't know that for myself, but I know people have said it happened. You see, I haven't been a waiter, and it's the waiters who talk about it. People have told me it exists.

Q The waiters have told you it exists?

A That's right, that they have heard it.

Q Now, you say that most of the people in your community go to Ragsdale from Dallas, rather than to the present delegation. Is it your feeling that, for instance, Mr. Bales, who testified yesterday, is not responsive to the black community in Travis County?

A Well, let me clarify what I said about Mr. Ragsdale. Maybe I should have said that Ragsdale comes to them, because Ragsdale lived in this community for years, and Rangsdale is always over in East Austin. He knows a lot of people there, and they will sit down and rap with Ragsdale to the extent that they would not sit down and rap with

Larry Bales. I'll say that.

Q Right, and the primary issue that you named that is a state issue in which blacks have a primary issue -- I believe you mentioned fair employment in State government.

A That's one. You know, that's one of the things that bothers me about, you know, the whole situation is the fact that for some reason many of the issues that I have a feeling should be developed with regard to blacks are not developed---.

Q Somebody coughed, and I didn't hear what you said.

A I say that's one very important -- I'm not sure -- I would personally consider it probably the most important area as far as Travis County, but that's one of the things that bothers me. I have a feeling there's a lot more problems that the black community have that the State government could do something about if someone would really get down and research it and try to determine what can the state do about freeways running through places like Clarksville. Maybe nothing, but maybe they can. What can the state do about unpaved streets? Maybe they can't do anything, and maybe they can, you know. I have a feeling that numerous things the state can do something about to lift the burden of the black communities, but they haven't done

anything about it, because no one really gets down there and digs and tries to see it. It just so happens that those eight black members of the Legislature have raised this issue as one area that they can help with. Maybe we need more of that. I'm not sure what all the state can do myself. I'm not that familiar with state government to know what the state can do about some of these immediate problems that the black people have.

Q So it would not be hopeless in this community then for a black to run for the Legislature.

A Oh, not to run, no.

Q Well, I mean to win.

(LAUGHTER)

A I think it would be almost hopeless for a black to win if you take this criteria that the Judge asked me about earlier when he questioned me about -- not criteria he asked me about, but I was explaining to him and the rest of you about the conflict that a black -- I think it would be almost impossible for a black who almost totally had the confidence of the black community to keep that confidence and win at large for several reasons. No. 1, he wouldn't be able to raise the money. No. 2, if he is a real man, he wouldn't compromise himself on the issues when he starts campaigning, and he's going to have to do it if he intends to win city-wide, I think. Those are two very important

reasons that I don't think a black could win.

Q Mr. Miles, I don't want to be argumentative with you, but what you're really saying is that the kind of black that you would like to see win---.

A That I feel most blacks would like to win, a black who is really going to address himself to the issues that involve black people.

Q But we do have two blacks that have been elected, one to city government and one to the School Board.

A That's correct.

Q Who were elected by roughly the same electorate who elects the Legislature.

A O. K.

Q Possibly you don't agree with Mr. Handcox, but is a black, is he not?

A Yes, he's black.

Q And Mrs. Delco is a black, is she not?

A That's correct.

Q And both of them were elected.

A That's right, but Mrs. Delco, as we pointed out earlier, was elected the day after Martin Luther King was assassinated.

Q Well, has she had to run again?

A No, her term is up this next year. I don't know whether she will run again or not. I think that was

very important. I don't think that should be taken lightly, the fact that she was elected the day after Martin Luther King was assassinated, because I think that had a great deal of influence on her winning. Otherwise, I don't think she would have won, because she did address herself to the problems that we're talking about.

Q Well, be that as it may, I'm not minimizing that, Mr. Miles.

A No, sir, I know you wouldn't personally, but it was an issue. Now, Burl Handcox does not live in the black community, and Burl Handcox did win on a slate that was pushed and financed and everything by people from the majority community. Now, if a black would get on a slate and run like that with the people that the people with the money want to push, now, that's one way a black that don't have access to the other community can get access to them, but this is not necessarily -- this is the very thing that I am talking about. To a large extent Burl Handcox probably does not completely represent the best interests of the black community, and he was on a slate with this establishment that I'm talking about, and if you are on a slate like that you can win, but if you are running on behalf of the black community and you're going to represent the black community without compromise, then I think this is a different case.

MR. BLACK: All right, sir. I believe that's all the questions I have.

JUDGE GOLDBERG: Anthing from here?

MR. RICHARDS: No redirect, Your Honor.

JUDGE GOLDBERG: Do you have anything?

JUDGE JUSTICE: Yes, I wanted to ask some questions.

EXAMINATION

BY JUDGE JUSTICE:

Q Do you follow what the legislators or the members of the House of Representatives from Travis County do in the Legislature? Are you generally acquainted with some of the bills they introduce and that kind of things?

A Well, I don't follow it probably as close as I should. Now, I am familiar with some of the things.

Q Let me ask you this. Are you aware of any bill being introduced by any member of the legislative delegation from Travis County which related to the fair employment practices by the state government?

A I think I remember a bill related to that introduced. I'm not sure that it was introduced by a member of the Travis County delegation.

Q Well, that's what I am asking, specifically by the members of the Travis County delegation.

A I don't recall any.

Q You think there would have been publicity about it had it been introduced?

A I think it would.

Q Do you recall any bills being introduced by any member of the Travis County delegation relating to fair housing practices or non-discriminatory housing practices?

A No, I'm almost sure about that.

Q Do you think there would have been publicity about it had there been such a bill introduced by some member of this delegation, the Travis County delegation?

A There would have been.

Q Do you recall any type of bills introduced by the Travis County delegation relating to non-discriminatory education?

A No, not by the delegation.

Q Or to civil rights?

A No.

Q You feel that in either of those instances there would have been publicity attendant to the introduction of such a bill?

A Yes.

Q And you heard of none.

A I haven't heard of one.

JUDGE JUSTICE: All right, thank you.

EXAMINATION

BY JUDGE WOOD:

Q Mr. Miles, as a political student, you will have to concede -- I think you have -- that slates of so-called establishment tickets do help candidates and help them run as a group. Is that right, on the ticket?

A That's right.

Q For financing and lobbying. Is that right? Isn't it a fact that these slates or establishment tickets also help candidates whether they are formed in single or multi-member districts? I'm talking about your investigation in Houston, Dallas and San Antonio. Don't those slates help those candidates.

A I guess they could, you know, but if there are single-member districts, the person that they select on that slate, they would have to deal with their district. In other words, they couldn't just get anyone and impose that person upon that community if they're a single-member district. They would have to get someone that would be able to win in that district, whereas, as it is structured now

with multi-member districts, they could get someone that they would be able to put a good public relations man on, and he would be able to win city-wide.

Q Aren't you willing to say, though, that with reference to Houston, Dallas and San Antonio that slates have been elected in both those counties based upon tickets put out by the so-called establishment, or do you know?

A Well, frankly, as far as San Antonio -- again, it gets to the definition of a slate, see, because if it is a group getting together to push certain candidates financially, and it's just a group that they feel that they can get together without compromising, like in San Antonio there are groups from all parts of the city that put out cards and things that had G. J. Sutton's name. It was just a matter of cheapness in getting things printed, but the establishment did not select G. J. Sutton to run for the Legislature. That community selected G. J. Sutton. I mean the black community. That's who the black community wanted to run, or that community, not all black, wanted G. J. Sutton to run.

Q You don't think there is any advantage to having a ticket in a single-member district?

A Any advantage to---?

Q To having a ticket or slate in single-member districts in San Antonio, Dallas or Houston.

A Well, you know, except that it costs less to print one card with several people's names on it.

Q Let me put it negatively. Do you have a disadvantage if you're not on that slate? When you're running against somebody in a single-member district that is endorsed by that ticket? Is that person at a disadvantage financially or otherwise?

A If he is not the person that was selected by that community to run.

JUDGE WOOD: O. K., that's all.

EXAMINATION

BY JUDGE GOLDBERG:

Q Mr. Miles, in the most recent session of the Legislature there were single-member districts in Harris, Dallas and Bexar County. There were multi-member districts from Tarrant, Nueces and El Paso. Tell me, if you know, whether or not the legislators representing the single-member districts, were more responsive to the wishes, the needs and the political requirements of the black community than those legislators who were elected from multi-member districts.

A There's some question in my mind that they

were more responsive.

JUDGE JUSTICE: Which was more responsive?

A The single-member district counties. I can think of one very good example in the city of San Antonio where G. J. Sutton represents a single-member district, and he raised an issue with regard to the location of a state office building, an issue that would have never been raised, whether or not it should be located in East San Antonio, the predominantly black part of San Antonio, or whether it should be located over on Broadway. That issue would have never been raised if G. J. Sutton had not been representing that district, because the thought would have never come across any person's mind to place that state office building over in East San Antonio.

JUDGE WOOD: What about the other twelve members that were elected from San Antonio besides Mr. G. J. Sutton? Were they more responsive?

A Right, that's one of the points I'm making. The member of the Legislature that lived in the area where he wanted it located pushed for that. I think they got deadlocked, but I think that's the way it is supposed to work. I mean they didn't get it either place, I don't think, but still G. J. Sutton raised the issue that wouldn't have ever been raised of putting the state office building in East San Antonio unless G. J. Sutton had been in the

Legislature. There are numerous examples of that. There's no question about.

JUDGE GOLDBERG: The Court will take a fifteen-minute recess. Let's speed up our driving speed, if we can.

(REPORTER'S NOTE: The Court then, at 10:40 o'clock, A. M., December 4, 1973, recessed until 10:55 o'clock, A. M., the same date, at which time it was reconvened.)

JUDGE GOLDBERG: Be seated. Well, are we on the outer fringes of Travis County, or where are we?

MR. CRAWFORD: Your Honor, we hope to move back into the contiguous and homogeneous East Austin area very briefly, and we would like at this time to call Volmar Overton. Mr. Overton?

VOLMAR OVERTON,

a witness called by the Plaintiffs, having been first duly cautioned and sworn to testify the truth, the whole truth and nothing but the truth, testified as follows:

DIRECT EXAMINATION

BY MR.CRAWFORD:

Q Will you state your name for the record?

A My name is Volmar Overton.

Q And you live here in Austin?

A Yes, I do.

Q How long have you lived here in Austin?

A I have lived in Travis County all my life.

Q But in Austin proper, how long have you lived?

A Thirty-five years.

Q How old are you, Mr. Overton?

A Forty-nine.

Q Mr. Overton, what type of employment are you in?

A I am employed by the federal government, United States Post Office.

Q What clubs or organizations do you belong to?

A Well, I am a member of the N.A.A.C.P. in Austin.

Q Any other organization?

A Other social and civic organizations.

Q Are you a member of a fraternity?

A Yes, I am.

Q What is that fraternity?

A Alpha Phi Alpha fraternity.

Q Is that an integrated fraternity?

A Yes, it is an integrated organization.

Q What is its history? Was it a predominately black institution?

A No, it's predominately black. It has recently become an integrated organization, but originally it started as a black organization.

Q Mr. Overton, you indicated you are a member of the N.A.A.C.P. Do you hold an office in that organization?

A Yes, I am President of the Austin Branch.

Q How long have you held that office?

A Twelve years.

Q Now, during the time you have held that office, has that group been interested in voter registration?

A Yes, we are. Each year we have been active in voter registration, because we have a committee that

actively registers people to vote.

Q But in addition to attempting to get the people to register, you also seek to get them to go to the polls and vote. Is that correct?

A Yes.

Q What results have you had in these two areas, getting them to register and, secondly, getting them to the polls to vote?

A Well, for the energy put out to get them to register and to get them out to vote, I'll say it is very hard and very difficult to get the black community to the polls to vote.

Q To what do you attribute that?

A Well, most of the comments that come from the black communities are, "They're going to do what they want to do anyway. We have no participation in this. What does it matter? You know, the white community is going to do what they want to do anyway."

Q Have you as President of the Austin Council of the N.A.A.C.P., have you ever been approached by any legislator of Travis County, Texas, to ask you what the needs of the black community might be and how they might help?

A Usually this is kind of a campaign to come out, you know, when they're running for office. This is

the only time, I would say,

Q This is prior to an election?

A Prior to an election.

Q After the elections, do you ever hear from any of these individuals?

A No, I don't.

Q Have you ever attempted to approach any of them and indicate the needs of the community?

A Yes, we have.

Q Has there been any results?

A No, we never had anything that we have actively advocated to be passed on by the Legislature.

Q Mr. Overton, in your individual capacity and as an officer of the N.A.A.C.P., have you taken an active role in attempting to get some adjustments made in the employment pattern of state government here in Travis County?

A Yes, we have.

Q Have you had any success?

A No.

Q Trying to pursue this, have you consulted with any state official or representative?

A Yes, we have.

Q Who would be these persons?

A Our State Representatives.

Q The local?

A Yes.

Q Have you also consulted representatives from other districts outside Travis County?

A Yes, we have.

Q Have they been receptive?

A Yes, the person that we have contacted was in regard to a state-wide bill, and this person was very receptive to get this before the Legislature.

Q This individual, what ethnic group did he belong to?

A Black.

Q Mr. Overton, within the organization is there some type of philosophy that you feel or that the organization feels would help to motivate the populace of East Austin insofar as -- just what do you expect your legislator to do?

A Well, I would expect him to be responsive to the voters of our community, and I would expect that, you know, when they appealed to them that some response would be given and not only just before an election that they would come around to get something to win votes, and I would expect that the people in the black community or the minorities to feel that they have a real share in shaping the community by, you know, representatives having a real share in the things that are done by the community.

Q Mr. Overton, do you know roughtly the percentage of blacks in Travis County?

A Roughly, I believe it is about 12 percent.

Q Do you know the percentage of blacks which are presently employed by the state government?

A I believe it is 2 percent.

JUDGE JUSTICE: Are you speaking about Travis County?

Q The state government and its offices within Travis County.

A I would say less than 2 percent.

Q What levels of employment are these persons in?

A They are in the custodial, janitor or maintenance departments, maintenance or garage type.

Q Now, you indicated earlier that you had made some contact with the representatives of Travis County. Do you think that this would be an area of concern for them?

A I'm sure it would be.

Q Do you think that they should be a moving force in attempting to eradicate or to change this condition?

A Well, I would like to think that they would be a moving force, but generally politicians--I mean people would tend to move according to what they feel would be their voting strength and certainly they wouldn't take

an active part.

Q Do you have a theory possibly as to why the Travis County delegation has done nothing in this area?

A Well, generally, most candidates in our community that have perhaps advocated this kind of thing would be defeated the next time around, so most politicians wouldn't advocate anything.

Q Yet, the black community would represent something like 12 percent of the population?

A That is correct.

Q Now, there has been some earlier testimony, Mr. Overton, and let me, if I can, preface my question with this and, that is, that some persons of black origin, when they become involved in politics, they face reprisals, of some sort. In your work have you ever had aspirations of getting involved in politics?

A Yes, I at one time had indicated I wanted to run for the City Council.

Q Do you know about when that was, Mr. Overton?

A Oh, I'm sure it has been at least five or six years ago.

Q What happened?

A Well, first I had to get permission from the Postmaster, and the Postmaster indicated he wasn't able to rule on it, so it was sent to Washington to the Postmaster

General to rule whether a government employee could run for public office, and he stated -- I think the letter came back from Washington and stated it would be left up to the discretion of the local Postmaster, and he ruled against me.

Q As a result, you did not run. Is that correct?

A That's correct.

Q Now, since that time, has there been any other thing that would lead you to believe that the fact that you had indicated an intention or a desire to run, that you have been treated differently?

A Well, at this time I don't think because perhaps only the Postmaster knew that I had intentions of running, and he was the one that made the decision I couldn't run, and I felt this was somewhat a prejudiced attitude.

Q To your knowledge, Mr. Overton, here in Travis County have there been other blacks who have had ambitions who have been subjected to any type of tactics?

A Yes, many blacks have attempted to run and, you know, explored opportunities to run and what would be available to them. Consequently, they were, you know, not able to run.

Q Finally, Mr. Overton were the Court to decree or order single-member districts for Travis County,

Texas, would there be any thought on your part or anyone else that these lines should be so drawn so that there would be a guarantee of a minority member being elected to that particular position?

A I don't think there should be a guarantee a minority could be elected, but I think it should be so drawn that the blacks would feel that they have a fair share in electing the person who would be elected to the office.

Q Are you saying then, Mr. Overton, that the person elected should be not only responsible but should be responsive?

A That's right.

Q And the black community should have a part of the action.

A That's right.

MR. CRAWFORD: Pass the witness.

JUDGE GOLDBERG: Next?

MR. RICHARDS: No questions.

CROSS-EXAMINATION

BY MR. BLACK:

Q Mr. Overton, instead of beginning, I want to ask you a little bit about this ruling of the local Postmaster about your running for office. Do you have any reason to believe that this was just you, or was he ruling for whites, blacks and everyone else working for the Post Office?

A I have a strong feeling he was ruling against me.

Q His ruling wasn't that you couldn't run, but that other postal employees could? That wasn't the ruling.

A No, that wasn't the ruling, but the ruling was that I could not. I don't know, but it was left to him to decide.

Q Has he ever allowed a white employee of the Post Office to run for the City Council?

A To my knowledge he has allowed one to run for the School Board.

Q Who is that?

A Mr. Martinez.

Q When did Mr. Martinez run for the School Board?

A The next year or the same year after I attempted to run, six years ago next year would be.

Q Now, when was this you decided to run for the City Council?

A Six years ago, I believe.

Q That would be 1967 or somewhere around there?

A Somewhere in that vicinity.

Q Is it the same Postmaster now that we have or different?

A Not now, but at the time when these two parties decided to run, we had the same Postmaster.

Q Now, that is a problem, of course, Mr. Overton, that you realize the issue in this case is whether we're going to have single-member districts or multi-member districts to the Legislature from Travis County. Your local Postmaster isn't going to change his ruling---.

A No.

Q ---whether it's single-member or multi-member district, is he? That ruling is the same.

A That's right.

Q Now, you say you know a lot of other blacks who have aspired to run for office and had reprisals. Do you know of any specific instances of that, or is it just generally known if a black runs for office---?

A The reprisals was that, you know, "Your job

is in jeopardy," or something like that, or you'll have no funds, these kind of things. They'll put you in jeopardy, suggest you not run.

Q Well, is this just a general feeling, or do you know of specific examples where this has happened?

A Well, I know of specific things where people were not able to, you know, get funds, where they wouldn't be able to get the money, or they changed their mind about running after discussing it with some of the white community.

Q But you don't know of any specific examples of someone being threatened with losing their job or loss of promotion for running for office?

A No.

Q Now, on this business of the voter registration you have worked in, when did they repeal the poll tax in Texas?

A Probably been at least eight or ten years ago, ten years ago.

Q And since that time that's primarily when you had been working on that, is it not?

A Well, we worked on it with the poll tax too.

Q Voter registration, of course, has greatly eased your burden, hasn't it?

A That's right.

Q Now, what percentage of the eligible voters

did you in the black community register to vote this past time, do you know?

A I would think we registered -- we had calls to aid to register in Travis County at least 60 or 70 percent of the blacks.

Q How does that compare with the white community, do you know?

A I would say it is much less percentagewise than the white community.

Q Do you know, or is that just what you would say?

A Well, I'm sure -- I don't have the figures before me, but I have had them discussed, and I have looked at the figures, but off the top of my head I don't know the exact figures.

Q You think the white community registration is over 70 percent, significantly over?

A I wouldn't say not significantly.

Q Of that percentage in the black community do you know what percentage that actually votes in legislative state races?

A It has varied from time to time. Sometimes it is 30 percent, 20 percent or maybe 40 percent, depending on the perhaps candidate in the race.

Q Now, I want to ask you a little bit about this

bill you say you asked for for fair state employment. Did you draw up a bill and give it to someone?

A No, state-wide, our state-wide N.A.A.C.P., we contact our legislators and things like this in support of the bill.

Q Well, was there such a bill introduced in the legislature this time?

A No.

Q And you say you approached somebody. Who?

A I had reference at this particular time to a prison reform resolution. I didn't say employment bill, but I was asked about had I approached the state about legislation.

Q But what you approached them about was prison reform?

A That is correct.

Q Was the bill introduced in the Legislature in accordance with your desires?

A Well, it was really a resolution passed to set up a study reform and this was done.

Q Was that in accordance with what you desired?

A What we wished.

Q Who introduced the resolution?

A The Senator from Galveston. I can't recall his name now.

Q Mr. Schwartz?

A I believe so.

Q Is he the person you approached to talk to about it?

A Yes, I did talk to him. That's correct.

Q Did you talk with the members of the Travis County delegation?

A Yes.

Q Who did you talk to in that delegation?

A I talked to Representative Weddington about it, and I talked to Representative Bales about it.

Q Did you talk to Representative Foreman about it?

A No, I didn't.

Q Let's see. Is there any other -- was Cavness in the Legislature?

A That's right, he was. I didn't talk to him.

Q Did you feel that the two you talked to were responsive to what you were saying about it?

A That's correct.

Q Did they vote for it?

A I didn't keep up with how it passed, but I talked to these two, because I felt they were responsive, and I didn't particularly follow up how it was carried through, and the resolution was passed. I'm not sure---.

Q You don't know whether they voted for it or not?

A No, I know we asked for this resolution, and it was passed.

Q Now, this concern you have about state employment, have you or any of your organizations ever pushed that in the State Legislature, or has any kind of legislation been introduced?

A Well, we have pushed this through a representative, and I know through the black representative in the State House.

Q And who, for example?

A Representative Sutton and the representative from Houston and the representative from Dallas.

Q And was a bill introduced by those gentlemen?

A I'm not sure what was introduced, but I know these were the people that we have consulted and urged to support this kind of thing.

Q Well, Mr. Overton, I don't want to sound argumentative, but if this is important to you, I presume you would know what happened to it in the Legislature. Do you know at all?

A No, I don't right now know.

Q Did you know at one time---?

A Uh-huh.

Q ---or have you forgotten? Well, let me ask you something specific. Did you ever go to our delegation from Travis County and ask or talk to them about this employment situation?

A Yes, I have. I have talked to Representative Weddington about employment, and I talked to Representative Bales about employment.

Q What did they do about it or what did they say?

A They were responsive to it -- you know, this kind of thing, getting more blacks employed.

Q What is the percentage of blacks state-wide?

A State-wide? I would think it's about 12 percent.

Q About 12 percent, the same as it is in Travis County?

A Roughly, yes.

Q Now, you say that all of the blacks employed in the state government are in custodial jobs. Have you really made a study of that, and is that your testimony, Mr. Overton?

A I didn't say all were.

Q I understood you to say all were.

A Well, the majority of blacks, yes, are in custodial employment.

Q Now, is this based on a study that you have made, or have you---?

A It is based on a study that I have seen, and it came through the Legislative Council, I believe.

MR. RICHARDS: Your Honor, we have an exhibit that is either already admitted or will be reflecting state employment.

Q But there are blacks employed in state government in responsible positions, indeed, in high positions. are there not?

A Few, if any, and very few, I would say.

Q Have you, for instance, investigated the Attorney General's office?

A Yes.

Q Well, you know for a fact---.

A Uh-huh.

Q --- that there are a considerable number of blacks, both serving as lawyers and as secretaries in that office, are there not?

A Yes, but that would be a small minority of the total picture of state employment.

MR. BLACK: I don't have any further questions.

JUDGE GOLDBERG: Anything further? Step down please. How many more live witnesses

have we got to complete this case?

(WITNESS STANDS ASIDE)

MR. RICHARDS: Let's see, Mr. Crawford has one more. Mr. Korbel has one more.

MR. GEORGE: We have one El Paso witness from everybody, and then our expert, I suppose.

MR. RICHARDS: And I still plan to call Representative Weddington and Ragsdale this afternoon, both very briefly.

JUDGE JUSTICE: What are we speaking of now in live witnesses?

MR. GEORGE: We have the El Paso witness, Mr. Crawford's other Travis County witness, the state-wide expert.

JUDGE GOLDBERG: What about the state? What about live witnesses on your part?

MR. YORK: Your Honor, we will have, I believe, around four.

JUDGE GOLDBERG: Around four.

MR. YORK: We've got one problem. We'll discuss with counsel about putting one on from El Paso out of order today, but it is somewhere around that number.

JUDGE GOLDBERG: Then I'd say about ten live witnesses. How much time do you think

we're going to take on the live witnesses?

MR. RICHARDS: I would anticipate we will complete this afternoon or maybe with a very little over.

MR. GEORGE: We think the expert witness' testimony should begin, which will be our last live witness, should begin today, and if not concluded, should conclude shortly in the morning, and then the state will have its witnesses. We don't have any planned rebuttal.

JUDGE JUSTICE: We were concerned about whether or not to have a night session.

MR. RICHARDS: I would think it will not be necessary, Your Honor. We'll be through by noon tomorrow, I think everybody will be, if that's a reasonable time.

JUDGE GOLDBERG: I assume that a number of you want to be heard from in argument.

MR. RICHARDS: That would be, I suppose, tomorrow afternoon, if tbat's a reasonable time schedule.

JUDGE GOLDBERG: Well, let's see. Proceed as fast as you can. That's all we can do. Thank you very much.

TOMMIE L. WYATT,

a witness called by the Plaintiffs, having been first duly cautioned and sworn to testify the truth, the whole truth and nothing but the truth, testified as follows:

DIRECT EXAMINATION

BY MR. CRAWFORD:

Q Will you state your name for the record, please?

A Tommie L. Wyatt.

Q How old are you, Mr. Wyatt?

A Thirty-six.

Q You reside in Travis County, Texas.

A Yes, sir.

Q How are you employed?

A I'm self-employed, life insurance salesman.

Q Mr. Wyatt, have you ever had political aspirations, ambitions or experience, and, if so, would you explain all that to the Court, please?

A I was a candidate for County Commissioner for Travis County in 1970 and 1972 also in the Democratic primary.

Q What were the results of those two primaries?

A In the 1970 irmary I was opposed by four other candidates, and I lost the runoff election, and in the 1972 campaign I was opposed by two other candidates, and I didn't make the runoff.

Q As between the first and the second primary, how was your funding? Were you able to get funds?

A Well, the funds were about the same. We were able to raise about $3,500.00.

Q What was the source of those funds?

A They were small contributions of $25.00 or less for the most part, and the rest of them were raised from small dances or private dances, benefit dances, cocktail parties, teas and so forth.

Q Mr. Wyatt, do you think you could run a county-wide race?

A At this time I would not attempt a county-wide race.

Q Why not?

A I think the chance of getting elected are very remote at this time, and I picked the Commissioner's race, because I thought it was one race we might have a remote chance of winning because of the fact that in a county-wide race with only 12 percent of the voters it's awfully difficult for a black to win that type of race.

Q Am I to interpret your testimony then that it is a hopeless and frustrating dilemma?

A It is very frustrating, and at this point most of us consider it almost hopeless, yes.

MR. CRAWFORD: Pass the witness.

MR. RICHARDS: No questions.

JUDGE JUSTICE: For the record, the Commissioner runs in a precinct?

THE WITNESS: A Commissioner runs in the precinct, right.

JUDGE JUSTICE: There is a certain definite boundary?

THE WITNESS: Boundary, right.

JUDGE JUSTICE: How many precincts are there in Travis County?

THE WITNESS: There are four Commissioners' precincts.

JUDGE JUSTICE: Thank you. They are single-member districts?

THE WITNESS: Yes, I guess you could consider it that.

CROSS-EXAMINATION

BY MR. GEORGE:

Q Two very short questions. One to follow up what Judge Justice asked. How many state legislators are there in this district?

A There are four.

Q Four?

A Right.

Q Have there been any candidates to your knowledge, black candidates for the State Legislature in Travis County?

A We had one black candidate that ran for the Legislature last time on the Republican ticket.

Q Republican?

A Right.

Q Have there been any for the Democratic nomination?

A To my knowledge there have been no black candidates for the Democratic ticket.

MR. GEORGE: Thank you.

CROSS-EXAMINATION

BY MR. BLACK:

Q Mr. Wyatt, on this subject of black candidates in Travis County, you ran for County Commissioner, and Mrs. Delco ran for the School Board, and Mr. Handcox ran for the City Council. Can you think of any other black candidates that have run in the last ten or twelve or fifteen years?

A There have been a number of candidates that have run. We've had R. B. Smith who ran for the City Council. We've had -- well, just a number of candidates. Most of them have run for City Council. There have been very few candidates that have run for any other office with the exception of Mrs. Delco. Most of all the other candidates have run for the City Council and, incidentally, they have all gotten beat by fantastic margins except Mr. Handcox.

Q And except Mrs. Delco?

A And except Mrs. Delco.

Q Now, you're running from what the Court pointed out as something that is comparable to a single-member district. Is that right?

A Right.

Q In other words, it's not county-wide, and

your community is in this place. Is this precinct one that is where the blacks have a greater percentage than they do county-wide, greater than 12 percent or what?

A In this precinct they would have a greater percentage, but they would still be far in the minority, something like 30 percent of it.

Q Did you get a fairly good vote from the black community in this race?

A About 95 or 96 percent in the black community.

MR. BLACK: That's all the questions I have.

EXAMINATION

BY JUDGE WOOD:

Q Who was the City Councilman that was elected?

A Burl Handcox.

Q Mr. Handcox?

A Yes.

Q Well now, is the City Council divided into wards or single members or is it---?

A It's at large.

Q And Mr. Handcox won at large?

A Right.

JUDGE WOOD: That's all.

JUDGE GOLDBERG: Step down, please. Next witness, please.

(WITNESS STANDS ASIDE)

LAMAR L. KIRVEN,

a witness called by the Plaintiffs, having been first duly cautioned and sworn to testify the truth, the whole truth and nothing but the truth, testified as follows:

DIRECT EXAMINATION

BY MR. CRAWFORD:

Q Will you state your name for the record?

A Lamar L. Kirven.

Q Mr. Kirven, you live in Austin, Travis County Texas?

A I do.

Q How long have you lived here?

A Eleven years.

Q And where are you employed?

A Huston-Tillotson College.

Q What do you do at that college?

A I am a professor of Government.

Q Mr, Kirven, there has been earlier testimony indicating that there exists a pattern of racial discrimination here in Travis County, Texas. Would you make a comment on that and indicate whether or not that is true or false?

A Well, Travis County, again, like a large portion of the state operates under a legacy of discrimination. They are still far away from the reconstruction governments to the present. Things are better. They are lots better now than they were twenty years ago, but the rules under which the politics in the State of Texas and the County of Travis operate were laid down long before blacks were permitted to participate in the Democratic processes.

Q Dr. Kirven, there is already another record which stipulates discrimination does exist up until at least 1960 within the state. I would like you, if you would, to just comment on what changes, if any, you have seen in Travis County since 1960.

A None to be exact. However, I would like to go back to 1953. Back in '53 we had a man by the name of Dewitty (phonetic), a black man, newspaper man, who ran for the City Council. We ran then by wards, and he ran fifth in the race, and immediately they -- promptly the City Fathers of Austin passed an ordinance whereby you would have to run at large, and that vote was nullified.

We have had some changes since 1960 when the poll tax was repealed or declared invalid by the three-judge Federal Court in 1966. We had an increase in registration of about 50 percent of the blacks and Mexican-Americans.

Q Dr. Kirven, if I might, let's go back to 1953 in the Arthur Dewitty race. Now, you heard the earlier testimony of T. L. Wyatt. Is that correct?

A That's right.

Q He indicated there have been a number of black candidates who sought election to the City Council.

A Behind him came a man by the name of -- well, Wyatt came and then Walker came two years later.

Q At any rate, there were a number of others.

A That's right, in the '50's.

A What do you attribute that to, the fact that Mr. Dewitty ran real well or what?

Q That's true. The pattern has always been across the state to discourage black participation in politics. How do you do it? You cut them out entirely until 1944, and after 1944 they're permitted to vote. You keep a poll tax until 1966, and once you do that, you throw up what we call administrative impediments to keep them from voting.

Q At any rate, can you give us a number of persons who might have filed for the City Council since '53?

A Well, the race was so hopeless until Mr. Handcox and Mr. Bales didn't come until 1970 and Mrs. Delco didn't come until 1970, and as a result of the abolition of the poll tax, free registration, and again, as a result of the findings of the three-man Federal Court, the permanent registration, you get more blacks registered, and more blacks participate in politics.

JUDGE JUSTICE: Now, he's asking you a specific question, and we want a specific answer. How many people -- how many black people ran for office from 1953 on up to this time, if you know?

THE WITNESS: There were five who ran for City Councilmen up to Mr. Handcox.

Q Now, has this been the area where you have had a greater number to run than any other area, that is, have you had a great number to run for County Commissioner or for the Legislature?

A Only two for County Commissioner. Mr. Hurdle (phonetic) ran for the School Board, Municipal School Board, Independent School District. Mrs. Delco was number two. Only one, Rawlings (phonetic), for the Legislature.

Q Would you conclude then, Dr. Kirven, that when there is a glimmer of hope that you will have more active participation and a greater number of candidates?

A Yes, on the parts of the blacks, speaking for blacks. Where there exists conditions whereby blacks may have an opportunity, a slight chance -- doesn't have to be a 50-50 chance to win, then they will come out in full force.

Q Dr. Kirven, the purpose of this litigation, of course, is to determine whether or not there should be a single-member district. Have you done any thought, done any preliminary work on a feasibility study of such a single-member district?

A Yes, I took my class this semester, and we drew up plans. Well, we were conscious of the fact that the University of Texas students were doing the same thing, so we wanted to get some participation in our students, so they drew up four plans that we went through and studied, and generally one of the plans was almost -- the district lines -- the legislative lines was run almost exactly as the present County Commissioner lines. Then we had modifications. Generally speaking, they all agreed on a plan that the lines would come somewhere south of 290, east of I-35 and down all the way to the Colorado River south.

Q Well, let me just ask you now, do you know what the population of the county is?

A Yes, around 290,000 people.

Q Something around 300,000?

A Right.

Q Among those would you find a contiguous or a homogeneous grouping of persons of similar ethnic and cultural backgrounds?

A With blacks and Mexican-Americans. However, any plan would still include a large portion of whites, no matter how you draw the lines.

Q But you think that across the board their interests would be quite similar?

A Quite similar. At least, Plan B that this group came up with ran across 19th Street over to Guadalupe to 38th, and that was a homogeneous grouping.

Q Let me just ask you one final question. Now the students who worked on this project, were they enthusiastic and highly motivated at the possibility of having an opportunity to participate actively in maybe a semblance of conducting the government?

A From my observation they demonstrated a great degree of enthusiasm. At least, they could see in this plan a glimmer of hope and a fulfillment of some of their aspirations that their parents had talked to them about.

MR. CRAWFORD: Pass the witness.

MR. KORBEL: I have one question, Your Honor.

JUDGE GOLDBERG: All right.

MR. KORBEL: George Korbel, representing

the Plaintiffs Moreno et al.

CROSS-EXAMINATION

BY MR. KORBEL:

Q You said that one of the plans which your students drew up roughly approximated the present County Commissioner lines. Is that correct?

A That's correct.

Q And is one of the present County Commissioners a Mexican-American?

A No, he's David Samuelson, Precinct No. 1.

Q But is one of the present County Commissioners a Mexican-American?

A Yes, Mr. Martin (phonetic).

MR. KORBEL: Thank you.

CROSS-EXAMINATION

BY MR. BLACK:

Q Mr. Kirven, I just want to ask you a couple of questions. You testified that one of your plans for single-member districts that your class drew up was roughly

along precinct lines.

A The current precinct lines, yes, sir.

Q And you were here when Mr. Wyatt testified, were you not?

A That's correct.

Q And he testified that there was only a remote chance for a black to win on that basis. You agree with that?

A No, I do not. There is a high possibility that a black -- what he didn't tell you was that had he been able to amass 12,000 votes, he would have been in the runoff. He lost in the first primary, and out of a total of approximately 40,000 blacks you can get from that somewhere around of those registered -- more than 50 percent registered about 80 percent will be voting, of the total registered, so you can get in excess of 12,000 votes. There's a good possibility of a black being elected to Precinct 1.

Q Another thing I wanted to ask you just really to get the facts, because Mr. Overton, I believe, testified -- no, I guess it was Mr. Wyatt testified that a whole bunch, a great number of blacks had run for the City Council, and I believe you said that they had not.

What blacks do you remember having run for the City Council?

A Dewitty in '53.

Q And who else?

A Lott in '55 and the Reverend Walker two years later. We had no one else to my recollection until in the '60's, and a man by the name of Smith, R. L. Smith, a real estate man, ran, and the next to show up was a man by the name of Hammond, Geroge Hammond ran in about '64, and then we had no one else until Mr. Handcox showed on the scene.

MR. BLACK: I believe that's all the questions I have. Thank you.

JUDGE GOLDBERG: Anything else over here (indicating)?

Step down, please.

(WITNESS STANDS ASIDE)

JUDGE GOLDBERG: Call the next witness.

MR. KORBEL: I call for Gonzalo Barrientos. George Korbel, representing the Plaintiffs Moreno et al.

Before I proceed with this witness, Your Honor, I would like to apprise the Court of the fact that the transcript which was introduced of the tape as Moreno Exhibit 25-Travis is a transcript prepared by our office pursuant to an agreement with the Attorney General's office. It is also from tapes which were discovered and

depositions on file.

GONZALO BARRIENTOS,

a witness called by the Plaintiffs, having been first duly cautioned and sworn to testify the truth, the whole truth and nothing but the truth, testified as follows:

DIRECT EXAMINATION

BY MR. KORBEL:

Q Would you state your name and address for the record, please?

A My name is Gonzalo Barrientos. I live at 2204 Bluebonnet in Austin.

Q What is your occupation, Mr. Barrientos?

A I am presently a free lance consultant on race relations, community organizations, social action programs.

Q Are you originally from Austin?

A No, I am originally from Bastrop, Texas.

Q And were you a student at Bastrop at the time Delgado versus the Bastrop Independent School District was decided?

A Yes, I believe I was in the second grade. Miss Delgado was in the third grade when that case came up.

Q I see, and from the third grade on then did you attend the integrated schools in Bastrop?

A Yes, I did. Prior to that time there were three schools in Bastrop, one for black people, one for the Mexican-American and one for the Anglo.

Q Now, there has been some testimony in this record about blacks having separate social organizations and separate social groupings here in Austin. Do you find the same things true for Mexican-Americans?

A Certainly. This changes a little bit as time goes on, different type organizations. For example, right now the athletic clubs are very strong here in Austin. The softball clubs, football clubs have tournaments, state-wide tournaments.

Q These would be predominatly Mexican-American. Is that right?

A Predominantly, yes.

Q And would Mr. Moya -- is he involved with this group?

A Yes, Mr. Moya had been one of the ball players for a number of years, and in the past few years he became the manager of one of those clubs.

Q Now, for the purpose of the record, Mr. Moya

is the Mexican-American County Commissioner in Travis County. Is that correct?

A Correct.

Q In the Mexican-American community here in Austin do you find low voter registration?

A Yes.

Q How does that compare with the Anglo community, let's say?

A Well, I couldn't give any specific numbers, but I would say a guess in Anglo voters might be 80 percent better in some cases.

Q A higher turnout. Is that what you're trying to say?

A Very definitely.

Q Were you a candidate for the State Legislature in 1972 here in Austin?

A Yes, I was.

Q And was that for the Democratic nomination?

A Right.

Q What place was that?

A It was Place 4.

Q Who were your opponents for Place 4?

A The incumbent Wilson Foreman and a young attorney by the name of Charles Richards. This was in the Democratic primary.

Q During that election campaign were you endorsed by several groups here in Austin?

A Yes, groups ranging from University students to environmental groups and others.

Q Would these have been the same groups who endorsed Representative Sarah Weddington and Representative Bales?

A As I remember, we acquired every endorsement that either Bales or Weddington acquired.

Q As a matter of fact, do you remember what the vote was in the original primary election, the first primary election?

A Roughly it was 39,000 for us, 33,000 for Mr. Foreman and 12,000 for Mr. Richards. Consequently, we had to have a runoff.

Q When you say us, you mean yourself?

A Right.

Q In the runoff election what was the final vote total in the runoff, do you remember?

A More or less 43,000 and 42,000. We lose.

Q You lost by about how many votes?

A Approximately 1,000.

Q Do you feel that there are certain issues that are of particular interest to Mexican-Americans in the East side of Austin that are just not taken care of by the

present representatives?

A I believe so, not only there. Our representatives here in Austin or Travis County, but I think different parts of the state. These issues range from education, health care---.

Q Do you have specific problems that you can point to?

A Well, for example, at the present time in the last couple of years for one reason or another we have had a terrible time with the youngsters and the gold paint sniffing, aerosol cans. In terms of education there have been some bilingual programs, but to my personal opinion not enough concentrated effort made in this. The educating and training of Mexican-American students to come back and take part in this educational aid themselves.

Q How about employees in state government? Do you find that there are sufficient numbers of employees in state government in the service-type organizations who can and do speak Spanish?

A Compared to the population, the Mexican-American employment in state agencies is very, very low. I know this personally.

Q I understand that, but I mean services agencies that are supposed to help the people on the east si of Austin or the west side of San Antonio or wherever,

are there sufficient numbers of people who speak Spanish well enough to deal with these people?

A No, there are not. I think it is very important to have those individuals, because there is a significant percentage of Mexican-Americans that do not speak English that well, and in order to get good communication across, we do need those individuals to help interpret.

Q Now, when you ran for election, can you tell the Court how much you spent in your election campaign?

A We raised and spent $19,000.00 approximately.

Q Can you tell us what the primary amount of that money was spent for?

A Advertising.

Q Would that be primarily television advertising?

A Primarily television. That's the biggest chunk to come out of there. Also newspaper, radio, some printing.

Q Had you been able to run for a single-member district hypothetically here in Austin, which included the primary part of the Mexican-American area, would you have allocated your resources the same way?

A Absolutely not. I think if there were single-member districts, as I understand it, it would cut it up to about 75,000 in each area.

Q That's correct.

A That's an area that one could possibly walk door to door if a person worked hard enough, and I would take off a great deal of money from television time and put it maybe in printing or whatever other---.

Q In fact, could you run cheaper from a single-member district than you could if you had to run county-wide?

A No question about it.

Q If you were running from a single-member district, would there be radio stations and specific newspapers that you would concentrate on that you really couldn't concentrate on from a multi-member district?

A Definitely. There are several radio stations, Spanish radio stations---.

Q Yes, sir.

A There are several neighborhood weekly newspapers so that those are there, yes, sir.

Q One further line of questioning, when you were growing up in Bastrop, what was your family's occupation?

A We were with the migrant trail until I was a junior in high school.

Q Did that migrant trail bring you in the area of Lubbock County?

A Yes, we would first take off down toward South Texas to, oh around Mathes and in that area and then

go back up to Lubbock, Littfield, Munday, that area.

Q When you were in that area, did you experience any specific discrimination against Mexican-American people?

A Yes, definitely. Those are my -- I have some bitter memories of those years, not being allowed to eat in certain restaurants, not being allowed to attend a movie unless it was upstairs in the balcony, some fights with other little kids that call you names.

Q This would have been in the Lubbock area generally. Is that right?

A Generally speaking, yes.

MR. KORBEL: I have no further questions.

MR. GEORGE: One brief question, Mr. Barrientos. I'm Jim George for the Plaintiffs Willeford.

CROSS-EXAMINATION

BY MR. GEORGE:

Q Where is Bastrop County with relation to Travis County?

A Right next door, about thirty miles away.

MR. GEORGE: That's all.

JUDGE GOLDBERG: Anything else from this side?

The Attorney General? Welcome back, Mr. York.

MR. YORK: Thank you, Your Honor.

CROSS-EXAMINATION

BY MR. YORK:

Q Mr. Barrientos, how old are you now?

A I'm thirty-two.

Q So you were in the second grade how many years ago?

A I would have to figure it out. It was about '47, something like that.

Q So when you're talking about the Delgado case, you're talking about something that happened twenty-five years ago some thirty miles from Austin?

A Right.

Q Your race against Mr. Foreman was a race against an incumbent?

A Right.

Q And an incumbent of what duration? How many terms had he served?

A I think it was fourteen years he served.

Q You ran as a representative of a minority

group against a fourteen-year incumbent and came within about 1 percent of the runoff vote beating him.

A Well, how do you mean a representative of a minority group? I don't understand your question.

Q Well, you are Mexican-American, are you not?

A I was a Mexican-American that ran for office.

Q That's what I am talking ibout.

A Right.

Q What don't you understand about it?

A I thought perhaps you were implying that I ran only saying that I would represent the Mexican-Americans.

Q You didn't run that way, did you?

A No, I did not. A lot of people thought after advertising that I was, because I got several calls at home asking me whether I was only going to represent Mexicans and Catholics.

Q Did you straighten them out?

A I tried to.

Q Well, you came within 1 percentage point of straightening them out, didn't you?

A Still losing.

Q I understand that, but the vote was 43,000 to 42,000, which is around 1 or 1 1/2 percent of the total vote that divided you and Mr. Foreman, if I understand the arithmetic correctly.

Wouldn't you agree -- in Travis County what is the total Mexican-American percentage of the population?

A Depending on which figures one might read, I think it is anywhere from 12 to 14 percent of the population.

Q You think that's a pretty fair showing on your part, even though you lost?

A In terms of the Mexican-American vote?

Q No, in terms of the fact that you came within 1 percentage point of beating a fourteen-year incumbent.

A Do I think it is a pretty fair showing?

Q Right.

A Certainly.

Q What had been your background publicly in the county prior to that? Had you been actively going around, been seen around on T.V. a lot and widely known in the county, or did you sort of start from scratch or what?

A I had been living here in Austin for about fourteen years since I graduated from Bastrop. After going to the University, I was employed by certain social action programs which gave me an opportunity to work with different sectors of the community in trying to help the low economic strata help themselves. In some cases there were some battles, if you will, that we had that I suppose I came out on T.V. and news.

Q Would you say that the name, Gonzalo Barrientos, was a household word in Travis County at that time?

A No, and it almost wasn't a household word the way it was being pronounced.
(LAUGHTER)

A It went from Barracuda to Barumba to Barrenos (phonetic).

Q And Mr. Foreman, of course, would have had much more name identification within the county than you had at the time you ran or began to think about running.

A I didn't serve fourteen years, yes.

Q You mention that the browns or Mexican-Americans have -- do they now have in Travis County what would seem to be separate sort of social groups?

A Separate from the general community?

Q Separate from blacks and Anglos.

A Yes, to a certain extent.

Q Is that one of those things that is sort of a result of the "brown is beautiful" kind of feeling, as opposed to a racial discrimination kind of thing where they can't get in similar white groups?

A I think it is because this community is there in this geographic area of the county, and I would have to go to some of the culture of the Mexican-American, but a

community of la familia type of situation, and in some cases it is kind of hard to join some of the other groups that are within the county.

Q There is a rather substantial movement, I guess, as we all know, among blacks and browns alike around the state, an interest in black culture and brown and Mexican culture, an interest in sort of banking together and retaining some of the ethnic heritage of both groups.

A That's true.

Q Which may not at all be related to racial prejudice or discrimination.

A That's true.

Q All right.

A But it might be a reason for it partly to protect what we say is good.

Q Well, that certainly wouldn't be the only reason why the blacks would be interested in their culture and heritage, the same as the Mexican-American.

(REPORTER'S NOTE: There was no audible response from the witness.)

Q Right?

JUDGE WOOD: You have to speak out. The court reporter didn't hear you.

THE WITNESS: That's true.

Q Now, one last question. You mentioned that as far as endorsements were concerned in this last election, you felt that your group or that you got all the endorsements group-wise that Sarah Weddington and Larry Bales got.

A That's correct.

Q Would that indicate to you that two of the present four members of the Travis County delegation, at least in the view of those who were doing the voting and endorsing, had somewhat of a community of interest with you in similar views and ideals as you had?

A To a certain extent, I suppose you could say that, certainly, if these groups came out endorsing every one of us. The reason for the endorsement might vary. The reasons that I got these endorsements are the positions and stands that I took on the issues. The question that I am often asked in the Mexican-American community, however, is one that comes from frustration and sadness that in spite of the fact that we stood on pretty much the same issues and endorsed by the same groups and organizations, they won and we lost.

MR. YORK: I believe that's all. Thank you, sir.

JUDGE GOLDBERG: Anything else?

MR. KORBEL: Just one further question, Your

Honor. George Korbel for the Moreno Plaintiffs et al.

REDIRECT EXAMINATION

BY MR. KORBEL:

Q Isn't it true that the American G.I. Forum and the LULAC organization were only founded in the post-war years to combat discrimination against Mexican-Americans in Texas and throughout the Southwest?

A That is true.

MR. KORBEL: No further questions.

EXAMINATION

BY JUDGE GOLDBERG:

Q Mr. Barrientos, do you have an opinion with respect to the social action programs that are of particular interest to the minority groups or better represented by representatives of single-member districts as contrasted with multi-member districts?

A Well, that's no question that I believe, there would be better representation from single-member

districts. There was a question that was asked one of the other persons that were testifying as to whether the people that came from single-member districts this last time in the Legislature provided any better representation, and I would underline that doubly that it was very much different. I heartily approve of single-member districts, yes, sir.

JUDGE WOOD: That does raise one question here.

JUDGE GOLDBERG: Surely.

EXAMINATION

BY JUDGE WOOD:

Q Do you have a criteria as to how large the single-member district would be to accomplish this purpose? At the present time in Texas the single-member districts are 75,000. That's considered the ideal. The ideal single-member district for senatorial candidates is 360,000. I believe I am right about that.

What is the ideal single-member district size that would best accommodate the purposes of the ethnic groups in these nine counties, generally speaking? It's got to be uniform, you understand, Mr. Barrientos, throughout the state.

A Yes.

Q Which is the ideal size of senatorial districts or ideal size of single-member districts to best accommodate the needs of the minority that you testified about in your opinion as an expert?

A Yes, my opinion at this point in time -- I think that one could not go over 75,000. Of course, one could not go over 75,000. Of course, as we go along---.

Q Wouldn't it be better in some instances to be smaller?

A Oh, definitely smaller, because we're going to have to have -- what I look at is the scarcity of money in these campaigns if you're going to run without any strings attached as a person that is going out there to get votes, the money that has to be spent. Certainly, as we go along, the more population these districts may have to become bigger, but I certainly hope not.

Q Of course, any time you diminish the size of your single-member district, you enlarge and increase the number of representatives correspondingly. What is your idea of the ideal size for the senatorial district and the ideal size numerically population-wise overall for the entire state of Texas that would best accommodate blacks and the browns in the House of Representatives, single-member, in your opinion with

reference to both senatorial and---?

A That's a difficult question, Your Honor. First of all, I hadn't thought that much about it in terms of the senatorial districts.

Q All right then, we'll disregard the senatorial districts. Just eliminate those. They're 360,000 and the Supreme Court held they are O. K. in this case. Now, what about the House of Representatives? What would be the ideal size state-wide to best accommodate the needs that you claim that the ethnic groups require, that is, the blacks and browns for better representation?

A I would say anywhere from 60,000 to 75,000. I would have to think about it some more, but at the present time that is just off the top of my head.

Q You see the problem?

A Oh, sure, yes.

JUDGE WOOD: Very well.

JUDGE GOLDBERG: Any other questions? We'll stand in recess until 1:30. Now, how many more witnesses do we think we have live?

MR. GEORGE: Your Honor, I believe this concludes Travis County.

MR. RICHARDS: Sarah Weddington.

JUDGE GOLDBERG: All right, you have one more and that's all your live witnesses besides

your expert?

MR. RICHARDS: Oh, no, I have Mr. Ragsdale and Sarah Weddington.

MR. GEORGE: I have one more.

MR. KORBEL: I have at least one and possibly two.

JUDGE JUSTICE: That's five.

JUDGE GOLDBERG: And the State still stays with four. Is that right? Nine more to go -- 12:30.

MR. RICHARDS: 1:30, we hope.

JUDGE GOLDBERG: 1:30.

(LAUGHTER)

JUDGE GOLDBERG: These figures had me confused there.

(REPORTER'S NOTE: The Court then, at 12:00 noon, December 4, 1973, recessed until 1:30 o'clock, P. M., the same date, at which time it was reconvened.)

December 4, 1973
1:30 PM

MR. YORK: Your Honor, with the consent of counsel, we would like to put two witnesses from El Paso on out of order, and hopefully they will not be very long.

JUDGE GOLDBERG: It's perfectly all right.

DAVID MORALES,

called as a witness, was duly sworn and testified as follows:

DIRECT EXAMINATION,

By Mr. York:

Q. Would you state your full name for the record, please sir?

A. David J. Morales.

Q. Where do you live, Mr. Morales?

A. 3308 Douglas Street.

Q. What county and what town?

A. El Paso, El Paso County, state of Texas.

Q. Okay. How long have you lived in the city of El Paso, Mr. Morales?

A. All of my life.

Q. What age man are you?

A. 23.

Q. 23?

A. Yes.

Q. All right. What business or profession are you in?

A. I am the director of the El Paso Educational Research Project.

Q. In a general way, what kind of work is that?

A. We do research on the Public School System for the purpose of disseminating information to the parents so that we can get them more involved.

Q. How long have you had that job?

A. I developed the project myself, and I've been working with the project for about three years.

Q. Does that project focus particularly on the problems of the Mexican-American students in the schools or is it broader than that or what?

A. Our main purpose is to organize the Chicano parents. So we do not investigate problems just particularly regarding Chicanos, but the overall situation in the Public School System.

Q. All right. What education have you had?

A. I have had 30 hours of college and I am a graduate from high school.

Q. You graduated from an El Paso High School and you have had 30 hours of college?

A. Yes.

Q. All right. Other than your job, have you been politically active in El Paso?

A. Well, I've been involved in areas of voter registration and political campaigns.

Q. What campaigns specifically in recent years, I guess all of your years would be fairly recent, but what specific campaigns have you worked in?

A. I have worked in the State Representative races where Moreno, Muniz and Santiesteban have run for office, together with Ramos. I've been involved in city elections. This would be in '68 and '70 and '72,city elections. And I've been involved in School Board elections.

Q. All right. So you've been pretty politically active in El Paso since you've been old enough to know anything about politics?

A. Yes, I have.

Q. All right. Let me ask you a few things about the degree to which Chicanos participate in politics in El Paso. First of all, taking the office holders, looking at your City Council and your Mayor, have Chicanos been active in those races?

A. We have been active in running and we've been successful in taking some of the offices.

Q. All right. Have you recently had or do you now have a Mayor who is a Chicano?

A. No, we don't. The last Mayor that we had in the City was in 1960 I believe.

Q. And what was his name?

A. Raymond Telles.

Q. And was he the one that -- had he formerly been County Clerk?

A. Yes, I believe so.

Q. And County Clerk is a county wide election?

A. Right.

Q. All right. Do you know what Mr. Telles has done since becoming Mayor or since leaving that job?

A. He took on some Presidential positions and he also was unsuccessful in running for the Congressional position, the 16th Congressional District in El Paso.

Q. All right. Had he been the Ambassador to Costa Rica?

A. Yes, he was.

Q. All right. Are there City Councilmen who either now or have in the recent past been Chicanos?

A. Yes, we have two Spanish names on the Council right now.

Q. What sized Council do you have?

A. We have four City Councilmen and one Mayor.

Q. All right. Just so the record is clear about it, are your Councilmen elected at large?

A. At large.

Q. At large? So that each Councilman would run city wide?

A. Right.

Q. All right. And you have two presently out of your four who have Spanish surnames?

A. Right.

Q. All right. What about the County Courthouse? Do you have Judges or County Commissioners or other elective offices whether county wide or not that are held by Chicanos?

A. I don't recollect there being any Chicanos as County Judges, but we do have two Chicanos as County Commissioners.

Q. All right, What is the present makeup of your delegation here in Austin? You have four Representatives and one Senator. How is that broken down?

A. There are all Anglo except the State Senator.

Q. All right. Now, this last session was the 63rd session of the Legislature. How were you represented the session before that, the 62nd Legislature?

A. We felt that we were represented fairly well if you could say by Paul Moreno, and the people that were the Chicanos that were --

A. Of your four man delegation that was up here two years ago, how many were Chicanos?

A. If I'm not mistaken, Santiesteban and Moreno were the only ones.

Q. In other words, two of the Representatives were Spanish surnames and the other two were Anglo?

A. Right.

Q. And then this last time, Senator Santiesteban ran for the Senate successfully.

A. Right.

Q. Who ran against him?

A. Well, the one that got in the run-off with Santiesteban was Paul Moreno.

Q. So that both of the fellows who had been Representatives in this 62nd Legislature chose to contest each other for the Senatorial seat and Senator Santiesteban won?

A. Right.

Q. All right. You have said that you were and have been active in the registration or the drive to register voters in El Paso County?

A. Right.

Q. Do you have a view that you could express to the Court as to whether or not in El Paso, El Paso County there is discrimination against Mexican-Americans or to put it more precisely, discrimination against Mexican-Americans of a sort which prohibits them from an active participation in the political process?

A. There have been some acts of discrimination in the past, in the near past which have kept Chicanos from getting registered. But at the present moment, I feel that the community has been able to overcome those acts of discrimination, which are not acts of prohibiting the Chicano from taking an active role. It's just a matter of taking advantage of their past political performance. But at this time, I feel that the community does have the activity within it for it not to be prohibited from taking an active role.

Q. All right. Considering that El Paso presently has a multi-member district situation where four Representatives are elected, each of them running county wide, and considering that the population in El Paso County is something around--people seem to vary about the figures -- but something around 60 percent Mexican-Americans, do you have an opinion that you could express to the Court about whether the continuation of a multi-member situation in El Paso County would be better calculated to insure the best representation of the Mexican-American in the community or whether going to a single member district system would be better calculated to see that the Mexican-Americans get the fullest representative they could have?

A. I believe that looking at the past performance of Chicanos in other words, and looking at the past the four years, I feel that under the multi-member

district the Chicano community had the opportunity to play an active role in politics in El Paso. I believe that the race between Santiesteban and Moreno as being the first indication that for the first time in the El Paso community, the Chicano community had the opportunity to choose between two Chicanos rather than in the past having always to have the Chicano as the underdog vying against the conservative Anglo candidate.

Q. Okay. Realizing that you are speaking only for El Paso and that you are not expressing any view about what ought to be done in any other county in this State besides El Paso, would you personally prefer from your vantage point to see multi-districts multi-member districts remain or would you personally prefer to see single member districts come in?

A. In El Paso County I would prefer to have multi-member districts remain.

Q. All right.

A. Rather than a single member.

Q. What effect do you think that a single member district situation or scheme would have on--can you see any way out that might actually disenfranchise in your view some of the Mexican-American population?

A. I feel that it would disenfranchise thousands of Chicano voters because of the housing authorities effect

on the displacement of many Chicanos from the depressed areas. There would be a lot that would be disenfranchised, going on the premise that single member would in effect disenfranchise or give the opportunity to the Chicano community to participate, I feel that that would not be the case. Under the single member districts, it would disenfranchise many Chicanos.

MR. YORK: Mr. Morales, thank you very much. That's all we have, Your Honor.

CROSS EXAMINATION,

By Mr. Korbel:

Q. George Korbel, representing the Plaintiffs Moreno et al. I want to get this straight so that there is no confusion. You are not saying that there hasn't been acts of discrimination against Mexican-Americans in El Paso County as well as state wide, are you?

A. What I'm saying is that there has been acts of discrimination which have--and it's effect kept the Chicanos from participating in the political institutions in El Paso.

Q. And do you suppose that the effect of these acts of discrimination -- do you still find that in the political participation, let's say of El Paso County?

A. You will find some remnants of it, but not to

the extent that it keeps the Chicanos from participating in the political process.

Q. Now, you said approximately what percentage of the Mexican-Americans are registered voters?

A. I would estimate about 45 percent.

Q. If I told you that the immediate past Chairman of the Democratic Party had made a head county of the number of Mexican-Americans that were registered to vote and found it to be 38 percent, would you deny that?

A. No, I wouldn't deny that.

Q. You haven't made a head count in other words? You are just estimating, is that right?

A. No.

Q. Now, what about on turn outs? Do you suppose on election day Mexican-Americans turn out in the same number that Anglos turn out?

A. I guess in most elections you will find more Anglos turning out than Chicanos.

Q. And if the immediate past Chairman of the Democratic Party in El Paso County said that there was an overwhelming number of Anglos that turn out in excess of Mexican-Americans, would you deny that?

A. It depends upon what he mans by "overwhelming".

MR. YORK: Let me interrupt counsel for a moment and ask him to give us the page reference if he's going to read from the deposition.

MR. KORBEL: I'm not reading from the deposition.

JUDGE WOOD: He answered the question by saying "what do you mean by overhwelming." And that's his answer.

MR. KORBEL: I have to apologize, Your Honor. The State did not waive the signatures on these depositions and so I only got them this morning. I'll leave that for now.

MR. YORK: Your Honor, it's a very minor point, but Mr. Korbel was the one that would not waive the signing, if anybody cares about that.

MR. KORBEL: Oh no, that's not correct, Your Honor.

JUDGE GOLDBERG: Well now, we're not going to get into the signatory problem. We've got enough problems.

Q. (By Mr. Korbel:) Now, you stated that there has been some effort to diversify the housing, the public housing in El Paso County, is that right?

A. Right.

Q. In the past, all of the public housing has been placed in the minority areas, is that right?

A. Right.

Q. Isn't it true that when this public housing was disbursed, there was a great outcry among the Anglo community. They didn't want the public housing in their area, isn't that true?

A. I haven't heard of an outcry from the Anglo community. They were not pleased with the Federal Housing Projects and where they were placed. They have been placed in locations where they are isolated from any neighborhood contact from the Anglo community.

Q. So that even though they are placed in Anglo areas, they still isolate the housing projects, is that right?

A. Right.

Q. Now, do you know how many Mexican-Americans have been elected to the State Legislature from El Paso County since reconstruction?

A. I believe the number would be around five.

Q. Can you name the number that are five? Can you name the five?

A. Mendoza was elected, Moreno.

Q. In '58 he was the first one, is that right?

A. I believe so. Moreno and Santiesteban and I think Muniz. That was it.

Q. That was four?

A. Yes.

Q. And there are none in the delegation now, is that right?

A. Right.

MR. KORBEL: I think that's all I've got, Your Honor.

CROSS EXAMINATION

By Mr. George:

Q. I'm Jim George representing the Republican Plaintiffs in this case, Mr. Morales. Quite briefly, let's go over a few things. You mentioned a Mayor in El Paso who was elected you said in 1960. Was he appointed to the position of County Clerk or did he run?

A. I'm not certain whether he was an appointment.

Q. Do you know what area of the city he lived in?

A. No, I'm not sure.

Q. You don't know? You said that there are currently two Mexican-American Alderman or Councilman in the El Paso City Government, is that correct?

A. Right.

Q. Can you tell us briefly are there slates of candidates running in the City Council elections?

A. They run in tickets.

Q. In tickets?

A. We have some candidates that run independent.

Q. Okay. The two Mexican-American Alderman, were they on the ticket or slate?

A. They were on a slate with the present Mayor.

Q. What is the present Mayor's occupation?

A. He owns the Circle K Food chain.

Q. Is that a major food chain?

A. Yes.

Q. What is the occupation of the two Mexican-American Alderman?

A. Villa Saes, I think he is a home developer and Morales is an insurance agent.

Q. Where do they live in El Paso?

A. I'm not sure where they live.

Q. Can you describe El Paso's Mexican-American community? In your direct testimony I believe in response to Mr. Korbel you talked about Mexican-Americans through the housing projects being spread throughout the community. Can I infer from that that there are concentrated areas of Mexican-Americans in El Paso?

A. I would say the vast majority of the Chicanos are segregated.

Q. Is it in an area known as the South side?

A. There is an area that's called the South side. I don't know how long it's going to last.

Q. Is it divided by the Freeway basically in El Paso from the rest of the community?

A. Well, I couldn't state that the Freeway divides it. Are you talking about just the South side?

Q. First I'll ask you where the Mexican-Americans, the predominately Mexican-American areas are. I thought you said that they were on the South side.

A. No. I didn't say that the vast majority of the Chicanos are on the South side. The South side represents--it's a small part of the overall Chicano community in El Paso. But the southern part of El Paso, the southern delta of El Paso holds I believe the majority of the Chicanos. But you can't say that the freeway divides the Chicano community from the predominately Anglo community because in the central area north of the freeway you do have Chicanos.

Q. Some Chicanos on the other side of Interstate 107.

A. Yes.

Q. Okay. Finally, two more series of questions. One is the Senate race that you referred to in which Senator Santiesteban won, who were the candidates in that race in the Democratic Primary?

A. In the Democratic Primary?

Q. Yes.

A. I think they ran against two Anglo candidates. But the ones that got into the run-off were Moreno and Santiesteban.

Q. Was there an incumbent State Legislator, an Anglo incumbent State Legislator candidate?

A. No, I think the incumbent, Joe Christie, did not

choose to run.

Q. Excuse me, I didn't mean incumbent Senator, I meant incumbent House Member.

A. Paul Moreno was the incumbent House Member.

Q. Anglo.

A. I think -- it was Scoggins and Caster I believe were the incumbents.

Q. Did either one of those gentlemen run for the Senate?

A. No, they didn't.

Q. Is Mr. Caster still in the Legislative delegation?

A. Yes.

Q. So he must have not run?

A. No, he did not run.

Q. So you really don't know who the Anglo candidates were, do you?

A. No, because our concern was that we felt Santiesteban was the strong horse or the strongest Democratic candidate running because he had the endorsement either on an official basis or an unofficial basis of Christie.

Q. Of Senator Christie? Where does Senator Santiesteban live in El Paso County?

A. Well, from the addresses that I have, he lives I think in the Eastwood Area, if I'm not mistaken.

Q. Can you characterize that? Is that a predominately Mexican-American area?

A. No., it's not.

Q. I take it you are some observer or have in your career in politics observed voting patterns?

A. Yes.

Q. In that first primary in the Senate race, the one I assume you are the most familiar with, did the Anglo areas of El Paso divide their votes among the candidates evenly or did the two Anglo candidates carry the Anglo areas heavily?

A. No, I don't believe that the Anglo candidates carried their area.

Q. In the first primary?

A. In the first primary.

Q. Okay. Has there been any response to your knowledge by the Anglo community to the relocation or the location of public housing outside of the south side in El Paso?

A. Well, there hasn't been any public disagreement with or anybody opposing it.

Q. There has been no opposition at all?

A. It is really a matter that the selection sites aren't made the year before. They are planned out by the housing authority maybe four or five years before they are constructed.

Q. And there has been no Anglo, none of the Anglo community has reacted to the location of public housing in previously all Anglo areas?

A. Well, I would say from what I've seen in the newspaper that there hasn't been.

MR. GEORGE: That's all I have.

JUDGE GOLDBERG: We are very happy to have your presence, but what standing does the Republican party have in this case?

MR. GEORGE: First of all, Your Honor, the intervenors I represent in these counties happen to be Mexican-Americans as well as Republicans. Second, this Court decided that in the Graves opinion, indicated that the decision upon the independent political, the representation of political minorities such as the Republicans need not be faced by the Court if there was discrimination against ethnic or racial minorities. We think that in this case the evidence shows such discrimination and we don't need to present evidence on our particular standing.

JUDGE GOLDBERG: I wanted to get it for the record and we appreciate your presence.

MR. GEORGE: Thank you.

MR. KORBEL: Your Honor, I have a couple of more questions.

JUDGE GOLDBERG: Have at it.

MR. KORBEL: Thank you, Your Honor.

RECROSS EXAMINATION,

By Mr. Korbel:

Q. Isn't it true that in the past there have been racial appeals or ethnic appeals to the Anglo voters in campaigns in El Paso County?

A. Racial appeals to the Anglo community?

Q. Yes.

A. There have been racial slurs in campaigns but not to the extent that they affect this --

Q. And the last one --

JUDGE WOOD: Let him finish, Counselor.

A. I feel that in looking at discrimination and racial attitudes that are brought out in campaigns that the Chicano he is the victim of racial slurs, but it is not to the extent that they really keep them from electing Chicano officials to positions in the city.

Q. What about the Mayor's campaign, the most recent Mayor's campaign?

A. I think the recent Mayor's campaign is an indication of how the Chicano community is participating in political power, despite the fact that racial slurs did exist. The opposition is really contradictory because the mayor that got elected is a Republican and he did run a racially biased campaign.

Q. And he ran against a Mexican-American, didn't he?

A. He ran against a Mexican-American.

Q. And what was the vote total in that campaign?

A. It was about 30,000 to 20,000.

Q. I see. So, he was able to run a radically oriented campaign and still get elected in El Paso County, is that correct?

A. Yes, sir.

Q. The Mexican-American community reacted to that though you say?

A. It reacted to it, but we are talking about what has been in the past and it has taken the minority some time to --

A. That was last year?

A. Last year, but it has taken them some time to become conscious of what's happening.

Q. Let me understand your position here. You are saying, if I'm not mistaken, that you would like to keep multi-member districts because you think that you can get all of the Mexican-Americans together and elect the entire slate, isn't that correct?

A. My decision to support the small town member districts and oppose single member districts is based on the premise that in dividing up the district or dividing up the county, we feel that it will disenfranchise more Chicanos than it will bring into the political process.

Q. You don't understand my question. It is the thing we discussed this noon and we discussed it last week. The reason that you are opposing multi-member districts is because you think you can elect everyone, isn't that true? If the Chicanos get together, you think you can elect everyone.

A. Now you are making what I would call very biased and prejudicial statements in the regard that I am capable of organizing the Chicano community. I believe the Chicano community should have the right to participate to their degree. And if they are capable of taking office, and perhaps in the past the vast majority of the State Representatives have been Chicano, then I think that's the prerogative of the Chicano community. But I feel that their ability to obtain representation should be left open.

MR. KORBEL: I have nothing further, Your Honor.

JUDGE GOLDBERG: Mr. York?

MR, YORK: We have nothing further, Your Honor.

EXAMINATION,

By Judge Wood:

Q. Just a few questions. What is the population percentage of Spanish speaking surnamed people in El Paso County, that is, Mexican-Americans, as compared with Anglos and blacks?

A. From the census I would go at 57 percent for Chicanos, three percent for the blacks and the remainder would be Anglos. Not baring the number of orientals or native Americans in this area.

Q. In other words, 57 would be Spanish surnamed Mexican-Americans, three percent black and the rest would be anglos and the others.

A. Yes.

Q. Orientals and so forth. That would be the rest?

A. Yes.

JUDGE WOOD: All right.

EXAMINATION,

By Judge Justice:

Q. You say that there was a racially oriented campaign on the part of the Anglo candidate for Mayor in this past election. What particular devices were employed in that connection?

A. It was a matter of them characterizing him as an unamerican because of his --

Q. They characterized him as what?

A. As an unamerican. He did not respect the United States because of his involvement with groups like what I would consider Chicano organizations. These would be the Chicano civil organizations, and for his participation in some group activity for

instance bringing in in a conference that we held at a south side school. We tried to bring as many Chicanos together as possible with every diversified political background from your most conservative to your most liberal so that there could be some system of communication, or understanding between them. So that there could be a consolidation of resources.

This was looked upon by the establishment as a conspiracy against them. This is not in a direct conversation that I have held with people that I would consider the wealthy and those that have the most political influence in El Paso, but it was a matter that was brought up in the campaign.

Q. Well, what particular organizations were characterized as unamerican?

A. Well, what made it so strange, we had some LULAC oriented organizations like the MAYO organization at the conference. We had the Chicano Political Office holders, who some people would consider conservative and to others they would be liberal.

JUDGE JUSTICE: Thank you.

JUDGE GOLDBERG: Anything else?

MR. YORK: Nothing further, Your Honor.

JUDGE GOLDBERG: All right, step down. Next witness.

FRANK OWEN,

called as a witness, was duly sworn and testified as follows:

DIRECT EXAMINATION,

By Mr. York:

Q. Would you give us your full name, please sir?

A. My name is Frank Owen.

Q. Where do you live, please sir?

A. 5503 Montoya, El Paso, Texas.

Q. How long have you lived in El Paso, Texas?

A. I've lived in El Paso County all of my life. I was born there.

Q. And how old a man are you?

A. 47.

Q. What is your present business or profession, please sir?

A. I am an attorney.

Q. Do you actively practice in El Paso?

A. Yes, sir.

Q. Have you held any public office in that county or from that county?

A. Yes, sir.

Q. Would you describe that briefly?

A. I was State Representative, first elected in 1950 until 1954 when I was elected in a special election to go to

the Senate, the State Senate. When my term expired, I chose not to run for re-election. At that time my term expired January 1965.

Q. All right, and have you been in the private practice of law and not in any public office since that time?

A. Yes, sir.

Q. Were you one of the candidates in 1972 when Senator Santiesteban was elected?

A. Yes, sir. I offered myself one more time for the State Senate. There were five candidates, three Anglos and two Americans of Mexican descent.

Q. All right. And this was the race we have already heard about wherein the then State Representative Paul Moreno and then State Representative Santiesteban succeeded in getting into the run-off and were ahead of you, both were ahead of you?

A. Yes, sir.

Q. All right. How would you describe, having grown up in El Paso and having grown up in the El Paso Schools and been in public office from there and served as a lawyer and public servant, how would you describe the relation between the Mexican-Americans in El Paso County and the Anglos?

A. I would have to give you just a very brief history. I grew up in the schools down in the valley, what they call

down the valley which is 40 miles from El Paso. I grew up on a farm. Other than my sister, the only people I ever knew were the Mexican people. And I knew them to be warm, affectionate and good people. They were the people I grew up with. When I went to grade school, the little town of Tornillo, I think there were two Anglo students in a class of about 50. I was one of those.

When I went to the Fabens Public School System, the proportions were a little bit different, but I think that we should clear one thing up, to this Honorable Court. The minority, if you want to characterize it that way, and I don't think it's quite accurate, the minority in El Paso County is the Anglo population. We are talking about protecting the minorities all the time and in El Paso the Anglos are the minority. And this is something that we all grew up with not knowing the difference. I didn't know the difference until amputation has been started in the last 12 years and I've come to know the difference now. But I didn't know the difference until that took place.

In my graduating class I would estimate, I don't remember the figures, but I estimate that 70 percent of my graduating class, 65 to 70 percent were Americans of Mexican

descent and the rest of us were Americans of every other kind of descent.

Q. All right. In your races beginning in the '50s when

you ran first for State Representative, did you actively campaign for and seek the support of the Mexican-American community?

A. Oh yes, of course. I had many of them helping me. I couldn't have been elected without their help.

A. With the numbers being what they are in El Paso County, is there any way in the world that an Anglo candidate can get elected without very substantial support in the Mexican-American community?

A. No. I don't believe there is under any circumstance particularly if you had this single representative district. You would find that we would have grater cleavage. And the first thing you know, we would have the ward healing community type of politics I believe that grew up in El Paso County.

Q. When you first got into politics in El Paso County and on up into now, would you agree with the statement made by Mr. McAlmon whose deposition was taken as a witness for the other side in this case, that is, for the Plaintiffs, page 17 when he states that there is no formal slating organization in El Paso County, that different interests groups have different choices and they publish their choices, but there is no county wide formal slating?

A. With the exception of the Mayor's race, yes, sir, I would.

Q. Now, how does that work in the Mayor's race?

A. Well, in the Mayor's race they actively and publicly run as a slate, as a team they call it. The same thing as a team. A person who aspires to become Mayor ordinarily if he does not run as an independent, and this does happen too, of course, some candidates have been indorsed without a slate, but if he chooses to run he usually goes out and attempts to get a broad cross section of the community, as broad as you can get with our members. There are four Councilman and the Mayor.

He tries to get them from various areas of the County or the city in the case of the Mayor. In other words, he takes into consideration the geography of the situation. He tries to take into consideration too the success of the individual. Naturally, he wants an individual who has a wide acquaintanceship and usually the wider the acquaintanceship, the more successful the person is. So, he does run as a slate and names this as a team.

In the last race that occurred, this was done by two major groups. And they were pretty well evenly mixed among the ethnic groups. We don't have just Mexican-Americans or Americans of Mexican descent and Anglos, we have a Chinese community, which is substantial as Chinese communities go for this part of the country, we have a Jewish community, we have a Syrian

community, we have something of a Yugoslavian community, a Czec community and then we have other groups that are semi-religious groups that you might consider a community too.

So that's the way they do it. They try to go out and get representatives of the community.

Q. All right. And you said the slating to the extent that what you have described is a slating process, this is not done in any other races in the county?

A. No, sir. To my knowledge and experience, it has never been done in any of the other races except for the City Council and Mayor.

Q. All right. Are you aware in El Paso County of any discrimination in the sense of public facilities, either theaters, restaurants, parks, pools and that kind of thing where there is any inability on the part of any minority group to fully use those?

A. No, sir. We don't have that that I know of. I do know that there are certain areas of town that an Anglo is not welcome in. But I have never had this particular problem because I seem to get along with most of those people. But we have an area down along Alemeda Street which is in part of this, I presume some of this area that has been referred to. And some people are just not welcome in certain areas. But I don't call that the type of

discrimination you are talking about.

Q. Do you have a substantial number of Mexican-American lawyers in El Paso?

A. Well, I don't know what you mean by substantial, but we do have a goodly number I would say. I think probably we have a greater number in proportion to the total number of active lawyers, those who are in active practice, those who are not connected with companies and such as that. Where they are in the active practice, we do have a good percentage, but I couldn't estimate it for you.

Q. Are those Mexican-American lawyers active in the leadership of the Mexican-American political community?

A. Well, not just the Mexican-American political community, but the whole community. They have become interested in all phases of it.

Q. You have a number of medical doctors in El Paso who are of Mexican-American descent?

A. Oh yes, sir, yes sir, we do.

Q. All right. In your view of El Paso County, is there any way that a man or a woman can be elected from El Paso County and come down to Austin and not be responsive over a period of time to the needs of the Mexican-American community in El Paso and expect

to get re-elected?

A. No, sir. The nature of the beast--you know, this politics doesn't matter what group, how they divide up, in order for a person to represent his district and to be re-elected, he must be responsive to the needs and the best interests of that district as a whole.

And on some occasions this means that he must be responsive to a particular ethnic group or a particular religious group or a particular non-religious group, without regard to their ancestors.

MR. YORK: Thank you very much.

CROSS EXAMINATION,

By Mr. George:

Q. Mr. Owen, my name is Jim George and I represent the Republic plaintiffs in this cause, originally Doctor Willeford and intervenor Kemendo in El Paso County.

I'd like to go over a few things with you quite briefly. First of all, can you give me some indication of particular measures you sponsored in the 56th through 60th Session was it, when you were a member of the Legislature that spoke particularly to the needs of the Mexican-Americans?

A. I never have broken it down as to one particular group or the other. I can think of one thing that Senator Case from Laredo and I

pioneered. It was some of the first instruction and I believe it must have been the first grade or the lower grades of Spanish in schools. That's just one thing that happens to occur to me.

Q. Let me ask you--

A. Another thing that probably occurs to me is that we had a water problem I think in El Paso. And we acquired some protection for the underground water rights. And I presume since the population is 57 percent Mexican-Americans that that responded to their needs.

Q. All right. Let me ask you quite briefly then, was it your view as a public office holder or is it your view now that the Mexican-American community of El Paso has particularized needs distinct from the needs of the people who live in Mission Hills and other areas of El Paso?

A. Well, if you are referring to some sort of welfare grants or something of that nature, perhaps we could devise some welfare grants that would bring them up, supplement them so they could buy a house that Mr. Kemendo is selling, the type of house that he sells, that expensive sort of thing perhaps. I don't know. What do you have particular reference to?

Q. Well, this is really trying to find out the kind of response that holders of political office in multi-member districts give to the particularized needs of the individual communities that exist.

A. Perhaps I could answer it this way: I was elected and re-elected for many, many years, and many of those were without opposition except when the Republicans ran somebody against me. And perhaps that responds to their needs.

Q. Representative Ben Reyes represents a single member district that is apparently something like what you described El Paso and a large number of his constituents are Mexican-Americans. Dealing with particular problems like being able to take the drivers license test in Spanish, dealing with particular problems of language barriers, I take it your testimony is that you never sponsored any of that except this teaching Spanish generally in the first grade? Let me ask you again did you--

A. That's your conclusion and I refer you just to the record and the record will speak for itself.

Q. Let me ask you--

JUDGE WOOD: Mr. George, how does this have anything to do with discriminating against the Republicans?

MR. GEORGE: Well, I think Your Honor--again, note that my position in this case is in line with this Court's opinion in the original case.

JUDGE WOOD: That was our original opinion, but I think the Supreme Court held that the Republican party had no standing in this case.

MR. GEORGE: I don't believe that is a part of the--

JUDGE WOOD: Well, certainly the Supreme Court's decision was based primarily, it was bottomed on the proposition that the only reason they upheld this Court on San Antonio and Dallas was bottomed on the proposition that there had been a long history of racial discrimination, isn't that true? How is the Republican Party in any way interested in that? And how would that be any holding that would in any manner give the Republic Party in view of that holding any standing in this Court? That's what's bothering all three of us.

MR. GEORGE: The Supreme Court didn't pass upon the issue that this Court left undecided. In it's opinion in Graves v. Barnes, this Court said that it was not necessary to deal with the issue--

JUDGE WOOD: Wasn't that the final decision of the Supreme Court? I've read it about three times. And the last time I read it I interpreted that as the final decision.

MR. GEORGE: Well, the only thing I can respectfully urge to Your Honor is the mandate of the Supreme Court which said "Affirmed in part, reversed in part and remanded to this court", which I take a remand to this Court to mean the final order of the Supreme Court, and the remand, at least as I understand the

word, is not a final order and certainly is -- as Judge Gee used to tell me, the verb at the end of the opinion indicated that it was remanded and not rendered.

JUDGE GOLDBERG: You are suggesting, Mr. George, that if the Supreme Court had wanted the Republican Party out of the case, they would have used the word "dismissed".

MR. GEORGE: That is my understanding.

JUDGE GOLDBERG: I don't know whether I agree with that or not, but that's your position?

MR. GEORGE: That's my position, and I don't believe they spoke to it. This Court specifically held that the Republican Party's position in the case was not necessary to decide in the original opinion because its interest in single member districts were adequately met by satisfying the interest of the minority groups.

JUDGE WOOD: Well, but the Supreme Court's decision in the Regester case affirms this Court insofar as it declares unconstitutional and impermissible the action of the legislature in having multi-member districts in Dallas and San Antonio. Addressing themselves to those particular counties, they upheld us only on the ground that we had made a finding that there was discrimination as to those

particular ethnic groups and those respective counties. And the rest of it seems to me to be a final judgment. But we will note your feeling about it.

But how does this have anything to do with the Republican Party, discrimination against the Republican Party, this line of questioning?

MR. GEORGE: Well, I think that it was within this Court's judgment originally and it has been my position throughout this case that if the minority groups have been discriminated against, that any judgment rendered by this Court that grants them adequate relief will also grant us adequate relief. And this Court specifically held in the first hearing in this cause that such proof was unnecessary and that it was unnecessary for the Court to decide. And I take that language to mean and have taken it from the outset that the position of the Republican Party was that if there was discrimination against the minority groups, ethnic and racial minority groups being represented here that--

JUDGE WOOD: And you think that would include the Republican Party? The only basis the Supreme Court found for upholding this Court in making single member districts in Bexar County and Dallas was the fact that there had been a history of racial discrimination. Do you feel that that holding gives the Republican Party some standing in this Court? There is certainly no racial discrimination involved

in the suit filed by the Republican Party, or is there any racial discrimination against the Republican Party?

MR. GEORGE: Let me respond to that first. One,

the Republican Party participated fully in the case before the Supreme Court. And to my knowledge, the issue of their participation was never raised by the State and has not been raised here now.

Second, the issue of the Republicans participation in the Supreme Court proceeding in this cause was not before that Court. This Court having decided that it was unnecessary to decide that issue and this Court specifically left that decision whether political minority groups have special rights in this case and that was left undecided.

And, secondly, let me remind the Court that my original plaintiff, Dr. Willeford, was in this case by virtue of the Plaintiff's complaint suing him as an official of the Republican Party of Texas along with the officials all electorial officials. That being a quasi-public office as the Chairman of the Democratic Party is and the Secretary of State is. That office was realigned as a party plaintiff on the decision of Judge Justice. And that realignment of the party plaintiff we have simply presented our position that throughout this proceeding, as the original Defendant and now realigned Plaintiff, that our interest in this litigation

continues to be that of having single member districts.

JUDGE WOOD: We have no trouble understanding the intervention on behalf of an individual defendant from El Paso County where he or she

has alleged, that is, the individual, that there has been discrimination against that particular person arising out of the fact that El Paso is a multi-member district. The trouble we are having some difficulty with is whether the Republican Party has any interest in the case in view of the Supreme Court's decision.

MR. GEORGE: I believe I have fully stated my position on it.

JUDGE WOOD: All right, let's proceed.

MR. GEORGE: Thank you.

Q. (by Mr. George:) The reason I have asked the questions about the legislation introduced, one of the issues as we understand it in the litigation is some measure of responsivness to thse particularized needs as the Fifth Circuit's inbank decision called for of minority groups.

Let me ask you, one, I have been informed that you voted against and took a public position against the repeal of the poll tax in Texas. My information is a little sketchy and I wish you would clear it up. I have been told by your primary opponent in the last Democratic election that you voted against--

MR. YORK: I believe Counsel is testifying. He can ask the witness. He doesn't have to

tell him anything.

MR. GEORGE: Thank you, Mr. York.

Q. (By Mr. George:) Did you vote against the repeal of the poll tax?

A. Yes, and I could go into three days worth of reasons why at that time under those circumstances I felt it should be voted against. But there is no sense cluttering up the record here and taking up this Court's time. But I'll be glad to tell your privately.

Q. Thank you very much.

JUDGE JUSTICE: Did I understand that he voted against the repeal of the poll tax?

THE WITNESS: Yes.

Q. (By Mr. George:) That's my understanding. My prefacing remarks were a little bit confused. One other vote that again I'm not exactly sure how this is, but did you sponsor a bill to make the display of the United Nations flag in Texas schools unlawful?

A. I sponsored a bill which would deny state funds to any organization, which would deny state funds if a foreign flag was flown over, and it included the United Nations flag, over state supported institutions in lieu of the Texas flag. Yes, sir. And in lieu of the United States flag.

Q. Are you in the banking business?

A. Yes, sir. I have some other businesses too.

Q. Are you an officer or director in a State chartered bank?

A. Yes.

Q. When did you first acquire that position?

A. About eight years ago.

Q. When was the charter of that bank?

A. About eight years ago.

Q. Approximately the same time you were a new Director?

A. Yes, I was a founder.

Q. Were you a State Senator at that time?

A. My term had not expired, no. It had not expired.

MR. GEORGE: That's all I have, Thank you.

CROSS EXAMINATION,

By Mr. Korbel:

Q. I'm George Korbel representing the Plaintiff's Moreno, et al. Now, you say, and I think correctly so, the Mexican-Americans have a majority, at least a racial population majority in El Paso County, isn't that correct?

A. Yes. That's not including of course those that have other Mexican ancestery that had intermarriages. It is the ones that are clearly definable.

Q. Well, if the United States census said that the Mexican-Americans were 56.87 percent of the population, you wouldn't disagree with that, would you?

A. I haven't taken the census.

Q. Now, if George McAlmon, the Democratic,

immediate past Democratic County Chairman said by deposition, by sworn deposition, which is in testimony before this Court that Mexican Americans only accounted for 38 percent of the registered voters in El Paso County, would you deny that?

A. I wouldn't have any basis of challenging that because I don't know the source of his information is.

Q. If he said he counted them, you wouldn't deny that.

A. I know George. If George said he counted them, I would have no reason to dispute George.

Q. So, when you talked about Mexican-Americans being a population majority, you are distinguishing that from being an electorial majority?

A. No, I'm not making that distinction. You are.

Q. The fact is that there are 38 percent Mexican-American registered voters and there are 62 percent Anglo registered voters, isn't that correct?

A. I think the mathematics would speak for themselves. Yes, sir.

Q. Now, you said that you voted against the Poll tax?

A. Yes, sir.

Q. You did that in the interest of Mexican-American political participation?

A. I did it in the interest of the entire district that I represented.

Q. And that included Mexican-Americans?

A. That included everyone who was in the district.

Q What was the percentage of Mexican-Americans in that district at that time? Would you say it was around 56 percent, the way it is now?

A No, no, because I represented nine counties. I don't know what the percentage would be. Perhaps 20 percent, maybe 25 percent.

Q Are you aware of the fact that until 1968 the schools, the El Paso Independent School District had a no-Spanish rule and the children were institutionally punished for speaking Spanish on the school grounds.

A No, I'm not aware of that. I know that we were the first school district to intregrate in the State of Texas.

Q When you say intregrate, that's --

A I know that we haven't had the problems that other places have had. I do know that.

Q But if the Civil Rights report indicated that the school district still had a no-Spanish rule as late as 1968, you wouldn't deny that?

A I can't vouch for the Civil Rights Report.

Q You said that you were a co-author of an early bilingual education bill. While you were a State Representative or a State Senator I should say from El Paso County, did it occur to you to look in and see what the Schools were doing in El Paso County with reference to bilingual education?

A Oh, yes. We had that understudy for a long time.

I was in constant contact with my school superintendents because we have two large school districts in El Paso. I worked with them and accepted their recommendations. They were the people who were skilled in that particular field. And worked very closely with them as well as at that time the common school districts.

Q And Mr. Pruitt would be one of those principals?

A Mr. who?

Q Mr. Pruitt I believe his name was.

A No. I don't know a Mr. Pruitt.

Q You were asked about particuarlized needs of Mexican-American people and you said "Well, maybe welfare grants." Do you suppose they have any other particuarlized needs besides welfare programs?

A Oh, sure. All people have particularized needs. And not just those of Mexican descent, but some of them of Yugoslavian descent that we have in El Paso have particular needs, some of Czech descent, some of Italian descent, some of French descent. We have many people who have particularized needs. People are people and people's needs are something without regard to the religious or ethnic background or ancestry.

Q What are those particularized needs?

A Well, I think you know as well as I do the basic needs that people have, the basic motivations that people

have in order that their ambitions and desires may be fulfilled and that they may dream and accomplish those dreams.

Q I'm asking you what are those particularized needs that you say exist and you said welfare.

A All right, sir, they need education. They need the opportunity for a job. They need their job security. And all of us need these things.

Q Okay. But particularized needs now, you agree that there were particularized needs. Can you identify the particularized needs?

JUDGE JUSTICE: Are you speaking of Mexican-Americans?

MR. KORBEL: Yes, sir.

Q (By Mr. Korbel:) It's easy to say jobs, that type of thing. It's easy to say welfare, Mexican-Americans need welfare. I want to know the particuarlized needs you say the Mexican-Americans have.

JUDGE WOOD: In what time frame?

Q (By Mr. Korbel:) At the time when you were State Senator.

A Well, we're talking about 20 to 25 years ago. They had their health care needs that we worked through the State Health Department including hospitals, hospital grants, the Hillburton funds that I was instrumental in assisting in.

Q As State Senator?

A I don't know whether I was a State Representative or a State Senator at the time, but I do know that I worked toward those ends.

Q I would still like to know how you can justify voting against the repeal of the poll tax.

A Well, if the Court has the time. It's not a matter of justification, it was a matter that at the time the poll tax -- I know what the arguments were against it and I know what the arguments were for it. We are talking about a mute question, completely mute. But the arguments were that it kept some people from voting. And that may have have been true to some extent, but it did not keep people from voting who wanted to actually go vote.

Q If I told you that the immediate past Chairman of the Democratic Party, George McAlmon, said in deposition that one of the matters which seriously affected Mexican-American participation today has been the poll tax, would you agree with me then that you were a party to that serious effect against Mexican-Americans.

A No, I don't agree with your damming conclusions because it's only your opinion. And I do not agree with George that it has that effect.

MR. KORBEL: I have no further questions.

MR. GLADDEN: I was in, if it please the Court --

JUDGE GOLDBERG: 600 miles away.

MR. GLADDEN: I understand. I served with Senator Owen at the time that he cast the poll tax vote. And while he may show some reservations over taking the Court's time to explain it, I would appreciate him explaining to the Court as to why he did it and what his reasons were for voting against the repeal of the poll tax.

JUDGE GOLDBERG: Mr. Gladden, do you really think that's germane to the decision in this case? Do you want us to sit here and listen to this for a day and a half?

JUDGE WOOD: Ten years ago.

MR. GLADDEN: I thought perhaps he could answer it in less than a day and a half. But if the Court feels like it's not germane, I'll withdraw my question. Thank you, Your Honor.

REDIRECT EXAMINATION,

By Mr. York:

Q Senator Owen, we have had talk in this case about a variety of different kinds of slurs, racial and otherwise. But I don't think it would be fair to you not to give you an opportunity to respond publicly to the public slur that was layed at your feet by Mr. George when he asked you about getting a bank charter while you were a State Senator. Did you commit any impropriety in doing that?

A No, sir. That is always the campaign implication and Mr. Kemendo is responsible for that as he was during the campaign. And I really don't care to respond to it except that I committed no impropriety. I never have and don't intend to. And if we get into a matter of personalities there are all sorts of things that can be dredged up.

MR. YORK: Thank you very much, Senator.

MR. GEORGE: I have no more questions.

MR. KORBEL: We have nothing further, your Honor.

THE WITNESS: May I be excused, Your Honor?

JUDGE WOOD: May this witness be excused?

MR. YORK: He certainly may, Your Honor, and we appreciate Counsel's indulgence in letting us put these two witnesses on out of order.

JUDGE GOLDBERG: Mr. Gladden, I hope you understand the Court's ruling with respect to your withdrawing the question. If he had answered it, I think we would have just taken and undue amount of time. I'm not trying to cut you off.

MR. GLADDEN: I understand, Your Honor. I have no quarrel with the Court's ruling. I think we debated this together 10 years ago. I heard his views 10 years ago and didn't agree with them then.

JUDGE GOLDBERG: You may be excused, Senator. Next witness.

MR. GEORGE: I would like to call Mr. Vincent Kemendo, please.

VINCENT KEMENDO,

called as a witness, was duly sworn and testified as follows:

DIRECT EXAMINATION,

By Mr. George:

Q Mr. Kemendo, would you state your name and address, please.

A My name is Vincent Kemendo and I live at 6800 Pino Real, El Paso, Texas.

Q How long have you lived in El Paso?

A 35 years.

Q How old are you?

A 35.

Q Have you been involved in politics in El Paso County?

A Yes, sir.

Q Would you describe your political involvement for the Court, please.

A In 1962 I was active in the Republicans race for County Judge and also for Congressman's race from the 16th Congressional District.

In 1964 I was active in the Goldwater campaign.

In 1966 I was active in Senator Tower's re-election campaign. In 1968 I worked for the re-election or the election of President Nixon. In 1970 I ran for County Commissioner on the Republican ticket.

In December 1971 I became the Republican County Chairman by appointment from the Republican Executive Committee. In 1972 I ran unopposed to this position and have held it ever since.

Q You presently --

A I'm presently the Republican County Chairman.

Q In that capacity, have you been [illegible]ired to -- have you made a study of the political history of El Paso County and who has held office?

A Yes, I have, in relation to two things primarily, State Representatives and County Commissioners.

Q First of all, has a Republican ever been elected State Representative from El Paso County?

A Not to my knowledge.

Q Nor State Senator?

A Not to my knowledge.

Q You have in your possession what has been marked as Republicans Exhibit Number 10.

A That's true.

Q Can you identify that, please?

A This is a list of State Representatives complied

by the County tax Assessor's Office. It was done under my direction and at my request. It lists all of the State Representatives since El Paso County has been holding elections or at least since the County Clerk has been keeping those records from 1886 to the present. I have every single State Representative. There are 50 of them. And I have every County Commissioner since 1886 and there are 67 different individuals.

Q All right. How many persons of Mexican-American surnames do you find or Mexican-American names do you find had held office as State Representatives from El Paso?

A There are four of them and they are all underlined on this sheet.

Q Four out of 50?

A State Representatives, yes, sir.

Q All right. Second, how many County Commissioners were there?

A Out of 68, there have been 17 Mexican-American surnamed County Commissioners. They are underlined. There were two on the first Commissioner's Court in 1886 and there are two on the present Commissioner's Court, one of them has been there since 1960 and the other has been there since 1962.

Q Let me ask you this: Do County Commissioners run from single member districts?

A Just like the rest of Texas, they run in districts and precincts. There are four of them.

Q There are four members?

A Yes, sir.

Q Can you describe the current single member commissioner's Court districts in terms of --

A Well, of course they primarily take up one quarter of the population of the county. But there are two of the County Commissioner's Precincts who are predominately Mexican-American. They are reflected by those who have been elected. And the other two are primarily Anglo.

Q All right. Are the two that are primarily Mexican-American, the seats in those held by persons with Mexican-American surnames?

A Yes. One of them's names is Sanchez and the others name is Telles.

Q Do you know where these Mexican-American County Commissioners live?

A Yes, I do.

Q Do they live in predominately Mexican-American areas in El Paso?

A They live predominately in Mexican-American areas of the Commissioners precinct, yes.

Q And they are predominately Mexican-American precincts?

A Correct.

Q I have handed you what has been marked as Republicans Exhibits I believe 11 through 15.

A Yes.

Q Describe to the Court what those are.

A This is a certified copy, a partial list of registered voters for El Paso County. It is a partial list that contains the names and addresses of the two Mexican-American County Commissioners and the three or four Mexican-American Legislators. The one in 1958 there is no record. But this certifies their names and addresses.

Q Do you know where those addresses are in El Paso. Do you know where 100 Pecan Street is?

A I know the area of town in which they live.

Q All right. Were the Legislators homes in the predominately Mexican-American area?

A No. I would have to say no to that question. The only one that might be considered in a Mexican-American area would be Paul Moreno. And he is certainly not in what has been stated before this Court to be the South side.

Q All right. Can you tell the Court where -- I don't believe it's on the certified list, but from your own personal knowledge where the current State Senator who I believe has a Mexican-American surname lives in El Paso?

A He's on this list.

Q He's on this list?

A Yes. He lives La Cruz Street which is what they call Mission Hills which is predominately homes of $40,000 and up.

Q Is that one of the highest income areas in El Paso?

A I would say it is one of the three highest income areas in El Paso.

Q I suspect in your job as County Chairman you are aware of political activity in El Paso County?

A I hope so. That's my job.

Q Let me ask you to tell us a little bit about the campaigns that have been run for the State Legislature and those that have been run for these County Commissioners seats.

A Concerning what specifically?

Q Well, the nature of the legislative campaigns and the nature of the County Commissioners campaigns, do people campaign in the same way?

A Well, in the State Legislative races, the multi-member district has 290,000 people in it, just about. And it comprises three-quarters of the county. And there is another district that takes in El Paso County and five other counties. And the type of races that are run when they have 290,000 people running is that there are a lot of candidates who want to win today, that is, 1972, 1973, 1970. He has to spend a lot of money on television. He has to put out a lot of direct mail and a lot of that type of advertising

in order to get his name to the 290,000 people.

Now, in the Commissioners races which are run, as I say, in single member districts comprising about -- oh, there are a little over 300 some odd thousand people in the whole county, 279,000, something like that, my arithmetic is pretty close, they run primarily in the Democratic primary. In my race for County Commissioner I spent $4,500 and I got 47 percent of the vote against a Democratic incumbent.

I did it primarily on billboards, bus bench ads and going from door to door.

Q Those billboards are located in the area?

A In the area. I went door to door in each and every precinct. This is primarily what is done in the Democratic primary. I had one newspaper ad the day before the election and it was a big ad. Most of them if they run ads at all run real small ones. And they primarily go from door to door or meet with their constituents in various areas. They don't run extensive expensive campaigns.

Q Do you know approximately how much money is spent on a serious race for the State Legislature in El Paso?

A That would be hard to say, but I would say in excess of $20,000.

Q All right. How much does the office of the State Legislator pay?

A $4,800 a year.

Q How much does the office of County Commissioner pay?

A $1,5000.

Q So it costs --

A Plus an expense account.

Q Plus an expense account. Okay. And you say you spent $4,500 for that race?

A Yes. It only paid $9,000 at the time but I thought it was a good deal.

Q All right. Finally, have you in your political activities -- I suspect that you are involved with the organizing of political activities and other things. When a Mexican-American announces for a political office, have you noted any kind of a particular response or the types of campaigns that are urged in the Anglo community of El Paso that are different when two Anglos are running?

A Yes, I think it's definitely true. You must remember that a majority of conservative, what I call November Republicans vote in the Democratic primary. And they live primarily in the so-called Anglo area I have spoken about. I can say because I've heard it. I can't document it in the newspapers or any place else, but I know it happens because I'm there. There are whisper type campaigns conducted against -- I've heard of it and I know it's true and it happens where I go and I heard people making these statements at social gatherings

at political functions too.

Q These whisper campaigns, the nature of them, what do they say exactly in the Anglo community?

A They say when there is an Anglo running against a Mexican-American that you can't let the Mexican-American get elected.

Q You'd better get out and do something?

A Get the vote.

Q Because the Mexican-American will take over if your not careful or something to that effect?

A Well, they just don't want them elected.

Q Is this tendency, this type of whisper campaign born out in the election? I assume you have studied the election results.

A As County Chairman, this is the first thing you do the day after the primary or general election.

Q Right. Has your study of election results shown that these types of whisper campaigns have been effective?

A Yes, you are always interested in the morning after the election, you pick up the paper and read the official returns. And in the predominately Anglo areas of El Paso when a Mexican-American is running against an Anglo, the Mexican-American does not receive percentage wise very many votes. The Anglo candidate receives the vast majority of the votes.

Q The vast majority of the votes. Even when a Mexican-American candidate happens to live in the same general vicinity?

A I would say that's true, yes.

Q Is this enhanced or not when the Mexican-American candidate -- Has there ever been a Mexican-American candidate from the so-called southside?

A Not to my knowledge in the state Legislature. No. Nor in the County wide offices for that matter.

Q There was mentioned in the testimony here today concerning Mexican-American participation in at-large elections for city governmental posts.

A That's correct.

Q Is that city governmental post run in a non-partisan election?

A It is run in off years and it is non-partisan.

Q Okay. I believe there is some kind of -- there was some testimony about a slating process that goes on or a ticket process.

A Yes, it is a slating process. It's been going on now for almost 20 years in El Paso.

Q Are you familiar with how the slating process works?

A Yes, I worked with it.

Q You have worked with it?

A Yes. There is a business man's group so-called. It's informal. It puts together a slate and raises money.

Q Are you a part of this group?

A I have worked in it. Prior to the time I became County Chairman I was very active in it. But since it is non-partisan, I have not worked in it very much since then. But prior to that, I did work in it. I worked especially in 1971 on one of the few losing causes. I don't know if that has any connection.

Q Okay. I take it that this group has won nearly all of the elections.

A To my knowledge since this has been going on for almost 20 years, they have only lost two races for mayor. They have always gotten at least half or the majority of the city council.

Q So, if they have the Mayor and two Councilmen, they have control of the City Government I suppose.

A That's correct.

Q And this business man's group that you are a part of, I take it -- there has been testimony that there are Mexican-American candidates on the slate, is that right?

A Yes, there is always at least one.

Q What is the process of selecting the people for that slate?

A They go out and find someone with a Mexican-

American surname and ask him to run who might be a member of the business community.

Q Is there any attempt to contact the Mexican-American community leaders? I don't know who Mexican-American community leaders are except Catholic Priests or something like that.

A No. I would answer that no. Primarily the so-called southside Mexican-Americans, the name that has been brought up here pertaining to El Paso County are not even consulted, no.

Q So there is never a County Chairman or anybody in the southwide who is politically active?

A No, not to my knowledge.

Q Do you think you would have knowledge of that?

A I know I would.

MR. GEORGE: I believe that's all I have.

CROSS-EXAMINATION,

By Mr. Korbel:

Q I have just one or two questions, Your Honor. First of all, is there any way you could cut El Paso County into State Legislative districts, into four State Legislative districts without at least insuring an excellent chance for two Mexican-Americans to serve on the State Legislature?

A I can assure you that two Mexican-Americans would

be elected primarily by the fact that 90 percent of the people that live there are Mexican-American.

Q What would the percentage population be in tnose districts, roughly, if you know.

A Around 75,000.

Q What would the percentage of Mexican-Americans in those districts be?

A In the two Mexican-American districts they would be overwhelmingly Mexican-American.

Q And that would give them more of a chance to elect someone?

A I would say yes. It would give them an excellent chance.

Q What are the most votes that a Republican has ever got in the primary running for the Texas State Legislature?

A Well, I can't say exactly in the primary. Are you asking me how many total votes they have had in the primary?

Q Yes, sir.

A Well, the most we had was 3700.

Q How would that compare with the Democratic primary?

A 50,000.

Q In the Democratic primary they had 50,000 votes?

A Yes, sir, they did.

Q And that would be because of what you term the

November Republicans, is that right?

A Yes, sir.

MR. KORBEL: I have no further questions.

CROSS EXAMINATION,

By Mr. York:

Q Mr. Kemendo, you have described your political activities I think beginning in 1964.

A 1962.

Q 1962?

A Yes, sir.

Q My notes, if I took them down correctly, indicate that you said in 1964 I believe you had worked for Senator Goldwater, and then after that for Senator Tower. And then you mentioned 1968 an effort to re-elect the President.

A To elect the President.

Q To elect the President. I didn't find any notations that you were active in an effort to re-elect the President in 1972.

A Well, I was the County Chairman. I think that's synonymous with re-electing the President.

Q Did you leave out the year 1972 a while ago?

A No. I didn't mean to. I was active in politics in 1972 because I was the County Chairman. I have been active ever since. Also I didn't say I had worked in city

elections. I forgot that. I had.

Q Okay. In terms of responsiveness to the needs of the Mexican-American community, how did Senator Goldwater fair in the Mexican-American community in 1964?

A He got killed.

Q How does Senator Tower usually make out?

A Senator Tower usually does much better. He doesn't get the majority, but he gets a better minority than many Republicans.

Q Okay. How do these whisper campaigns work? If you are at a social gathering, do people really whisper to you?

A No. They say it right out.

Q It would be more of a say it right out campaign than a whisper campaign.

A I use the word whisper because it doesn't come out in the newspapers and things like that. But people of the community talk among themselves and they say that they are not going to vote for the Mexican-American candidates and it is borne out in the election results.

Q I assume that there are conversations whispered or otherwise that they are not going to vote for the Anglo candidate.

A They vote.

Q No, I mean among the Mexican-Americans, do you

suspect that they may occasionally say "we are not going to vote for the Anglo. We'd better get out and vote."

A I would assume so, yes.

Q And you assume that the democrats might at some point in the future make such statements about Republicans?

A Probably.

Q Liberals might make such statements about conservatives?

A I would assume so, yes.

Q Okay. You have indicated that you believe -- talking about the polarization of the voting between the Anglos and the Mexican-Americans, we have heard you say that you believe that it pretty well will be polarized, if you have got one versus the other that Anglos vote one way for the Anglo and the Mexican-Americans vote for the Mexican-American. Right?

A That is primarily true, yes.

Q You are aware of the testimony we have just heard here in this Courtroom concerning the race with Senator Santiesteban when he won?

A I am very aware of that.

Q That was against least three Anglos.

A That's true.

Q And another Mexican-American.

A That's right, Mr. Moreno.

Q As County Chairman, were you County Chairman in 1970?

A No. I ran for County Commissioner in 1970.

Q Were you active in any way in the Mayor's race where the Republican ran for the Mayor in 1970 in El Paso?

A The race was in 1971.

Q Was it '71?

A One of the off years, the Mayor's race.

Q Were you active in that?

A No, sir. It was a losing cause. The man is --, yes I think he's a Republican. He ran for Mayor and lost in 1971.

Q Your new Mayor is a Republican?

A He is, yes. He was the former Vice-Chairman of the Party.

Q Well, which race is it now, I get confused about the time, there was a suggestion made awhile ago that there were racial issues used in the Mayor's campaign recently. Was that the '73 campaign?

A Yes. I got that from what he said. I think he had his years confused. But if he was talking about the Mayor, that was the man.

Q Well, do you concede that the Republican candidate used racial tactics in the race?

A Perhaps. Yes, he probably did.

Q Did you have any part in indorsing that?

A No, I wasn't working. I was County Chairman as I testified, but I wasn't active in that race.

Q Okay. Did you have anything at all to do with that race?

A Not myself, no.

MR. YORK: Okay. Thank you very much.

MR. KORBEL: I have just one thing, Your Honor.

RECROSS EXAMINATION,

By Mr. Korbel:

Q As a matter of fact, those city races, the Mayor's race we are talking about are non-partisan, aren't they?

A They run in the off years. You do not run in the primary. They file for the office and they have a run-off and the guy that gets the most votes in the run-off wins.

Q They are non-partisan?

A They are non-partisan.

MR. KORBEL: That's all.

JUDGE GOLDBERG: Mr. Gladden, would you care to interrogate?

MR. GLADDEN: No, sir, thank you very much. I don't believe I need to ask him any questions.

JUDGE JUSTICE: Is the name Kemendo Spanish?

THE WITNESS: No, it is Italian.

JUDGE JUSTICE: Thank you.

MR. GEORGE: May Mr. Kemendo be excused now?

JUDGE GOLDBERG: Oh, yes.

THE WITNESS: Thank you, Your Honor.

MR. GEORGE: Oh by the way, I believe I need to offer these exhibits.

JUDGE GOLDBERG: Next witness.

MR. RICHARDS: I call State Representative Paul Ragsdale.

PAUL RAGSDALE,

called as a witness, was duly sworn and testified as follows:

DIRECT EXAMINATION,

By Mr. Richards:

Q Could you give us your full name, please sir.

A Paul Ragsdale.

Q And you live in Dallas, Mr. Ragsdale?

A About five-and-a-half years.

Q You are a State Legislator from Dallas County, is that correct?

A Yes, sir.

Q How old are you?

A 28.

Q You are a graduate of the University of Texas, is

that correct?

A That's correct.

Q And you have a degree in --

A Socialogy.

Q Socialogy? When were you elected to the Legislature?

A In November of last year.

Q That would be --

A 1972.

Q 1972. Was this the first time you ran for public office when you ran for the Legislature?

A Yes, it was.

Q Were you elected in one of the single member districts that were created by Federal Court in Dallas County?

A Yes, I was.

Q How much money did you spend in your total campaign expenses for your election?

A Close to $3,500.

Q How many opponents did you have?

A Five.

Q Did you have a run-off as well as the first primary election?

A Yes, I did.

Q During the time you have served in the Legislature from Dallas County, have you had an opportunity to observe

particularly the black minority community in Dallas, it's awareness and interest with respect to the Texas Legislature in matters affecting the State Legislature?

A Yes. There has been and there is a currently growing interest in the Legislative process.

Q Is this in part you think attributable to the fact of a single member district, single member districts in Dallas County?

A I would think so. Prior to the advent of single member districts, not very many blacks it seemed to me were aware of what the legislature was all about.

Q And what is the situation now?

A There is a greater awareness because of the visibility of the people elected from the single member districts as opposed to the at-large districts.

Q As you have seen it, what is the effect with respect to the development or articulation of issues that speak to the particularized needs of the minority community? What effect has the single member district had on that?

A Well, I think it has had a meaningful and positive impact.

Q How so?

A Well, for example the kinds of legislation that is being sponsored or that was sponsored in the last legislative session.

Q By representatives from the single member districts you mean?

A Yes.

Q Specifically, can you call to mind an issue in Dallas for example that was one which you addressed yourself to which was in your opinion particularly responsive to the wishes or needs of the minority community in Dallas?

A Yes. I sponsored a bill which created single member districts for the Dallas School Board. As far as I can understand this is the first time in Texas history that the Legislature has ever accomplished this, had ever made such a move.

Q And now as a consequence of -- Was this an issue in which the black minorities in Dallas in particular were substantially interested in?

A Yes. As a matter of fact, it was one of my campaign committments. It was a part of my platform.

Q What impact, if any -- Do you know what I mean when I refer to the DCRG?

A I certainly do.

Q What impact, if any, did the DCRG Organization have upon your race and the other single member legislative districts during the 1972 campaign?

A Insofar as I could tell, they had almost no impact.

Q Those races were run and won by candidates indep-

endent of slating, is that correct?

A. There was no DCRG slate as such. Candidates filled it, but there was no slate.

Q. There were candidates able to make their own races by contacting the people in the community?

A. Yes, sir, that's the way I did it.

Q. Okay. Well, there were other candidates too, legislative candidates who ran their races by going from door to door and talking to people, weren't there?

A. Certainly.

Q. Jim Maddox was one, was he not?

A. He certainly was.

Q. I know you may have some selfish view in response to this question, but in your opinion have the needs of the minority community in Dallas been better served and better represented by the current single member district delegation than they had been in the previous at-large delegations?

A. Undoubtedly.

Q. Do you think they would so agree, the minority community?

A. Certainly. I might add that single member districts, this concept is popular all over the county, now, there is a preference for single member districts over most anything else in the county, because of the way we responded at the last session of the legislature.

Q By the way, is that in the total community and not just limited to the black minority community?

A The total community.

Q All right. Looking to the legislature as a whole, in your opinion have the single member district delegations from Dallas and Bexar Counties generally been more responsive to the particularized needs of the minorities, black and Mexican-Americans than the at-large delegations from the other urban counties?

A In my opinion, yes.

Q Now, there's been some testimony and I don't believe you were present today, but there's been some testimony from some black residents of Travis County that they have sought you out and talked to you even about their problems here in Travis County. Has that been true in regard to other black residents across Texas?

A Yes, and in the rural areas also.

Q All right, sir. And do you feel that you have some acquaintienceship with the black community in the other urban areas of Texas?

A Yes, sir, I certainly do.

Q Okay. Based upon that experience and that observation, would you say that with respect to the black communities of Tarrant County, Jefferson County, Travis County and McLennan County that those black communities are suffering

many of the same kinds of disabilities that were suffered by the black community of Dallas County under it's at-large representative scheme.

A Would definately say so. The black population as in the case of Dallas was a distinct minority when you talk about voting strength. And their needs in a large measure gets submerged by the larger communities representation.

MR. RICHARDS: Okay. That's all the questions we have. We pass the witness.

MR. GOLDBERG: Mr. George?

MR. CRAWFORD: If I might, Phillip Crawford representing the Plaintiff Chapman et al.

CROSS EXAMINATION,

By Mr. Crawford:

Q Mr. Ragsdale, there has been some testimony with reference to persons living in Travis County having come to you for assistance. This is a fact, and others across the State. Has this in any way been a burden upon you in representing fully and totally your single member district in Dallas County?

A Well, with black populations from these other areas contacting me, I certainly have to forego some of the needs of my own individual district in order to spread my time

around and work on some of these other problems, people in other areas.

Q Then would it be fair to surmise that there is a lack of ability of communicate with others who may attempt to represent these views of minorities?

A Apparently so because I certainly have been contacted.

MR. CRAWFORD: That's all the questions I have.

JUDGE GOLDBERG: Mr. Gladden, would you care to interrogate your neighbor to the east?

MR. GLADDEN: No thank you, Your Honor. I think Mr. Truan when we get him here.

JUDGE GOLDBERG: Mr. York?

CROSS EXAMINATION,

By Mr. York:

Q Mr. Ragsdale, have you lived all of your life in the Dallas area?

A No, sir, I sure haven't.

Q Where have you lived in Texas other than the Dallas area?

A I grew up in east Texas in a rural area outside of Jacksonville, a little black community. I lived there until I was 16 at which time I moved to Austin.

JUDGE JUSTICE: What was the name of the community?

THE WITNESS: The Mount Haven communit in Cherokee County.

MR. YORK: The Eastern District of the United States if the Court please.

JUDGE JUSTICE: I was formerly a resident of Henderson County.

THE WITNESS: At the age of 16 I moved here which was in my last year of high school. Then I went to the University of Texas. I moved to Dallas in 1968.

Q Okay. So you have not ever lived in Ft. Worth?

A No, sir, I sure haven't.

Q You've not ever lived in Jefferson County

A No, I sure haven't.

Q Or not ever lived in any other county in the State other than the ones you have described? Is that right?

A Yes, these would be the areas of my residence.

Q Being totally fair to the Court and to both sides of this litigation, don't you think that it might be a little bit presumptious on your part to seek to tell the Court about the problems in Jefferson County? Maybe "presumptious" is a bad word. But I mean being totally fair about it, do you believe that you are completely in touch and aware of the problems of the black community in Jefferson County?

A I'm certainly not aware of all of the problems in Jefferson County no more than I am all aware of the problems

in Dallas County.

Q Are you equally aware of the problems in each county then?

A No. I'm certainly more familiar with Dallas County. I have been sought out on occasions by people not only from these counties you mentioned, but some of the other counties for assistance. Tarrant County in particular, it being a neighbor, a next door neighbor to Dallas County. The blacks over there have contacted me --

JUDGE GOLDBERG: Mr. Ragsdale, I can't hear you.

THE WITNESS: The blacks over in that area as well as other groups of people not all black have contacted me in regard to single member districts.

Q All right. Now, on that point, by the way, is there anything particularly uncommon on the legislative process for groups who are interested in a particular thing to go to a member of the legislature or to a Senator who lives outside their district to ask for help in a program or in an area that they know that particular Representative or Senator can be helpful in?

A I don't know. It would seem to me -- I know that the people of Ft. Worth certainly felt that their delegation was in a large part unresponsive to their needs or their cries for a single member district. And this is the reason they sought me out because I've been rather vocal on the subject

of single member districts.

Q. I understand you. But what I'm asking you is, is it uncommon for people to go from say Austin who are interested in a particular thing to a Representative or a Senator from another district if that particular man or woman is a leader in that area or can be helpful to them.

A. Well, absolutely not.

Q. All right. There are a lot people beating on Senator Mauzy's door about a consumer protection bill which was passed this last legislature and they certainly were not all from the Dallas area, were they?

MR. RICHARDS: I suggest regarding Senator Mauzy that we may call him as a witness. He would be the best person I think to answer that question rather than Senator Ragsdale.

JUDGE GOLDBERG: We've let the bar down here pretty good. I don't want to erect any artificial barriers at this point. Let's get it moving.

Q. (By Mr. York:) Sir?

A. I don't recall the question.

Q. Well, I've just asked you, you know for instance that Senator Mauzy was very active in the passage of the consumer protection act, an act which our office was particularly involved in, and there were people from all over the state who recognized Senator Mauzy as a leader in that

area and came to him for his support and activity on that question.

A It may not be unusual for a people to contact a Legislator from outside their district. However, the reason that I was contacted was because most of the delegation over there in Tarrant County, the black people felt most of the delegation were unsympathetic to their cries for single member districts.

Q All right, sir. Now, in 1970 did Joe Hawn run for the Legislature from Dallas County?

A So far as I know, yes.

Q And was he successful?

A Yes.

Q And did Chris Semos run?

A Yes.

Q Successfully?

A Yes.

Q Ben Atwell?

A Yes.

Q Now, the Chris Semos race, would it surprise you to learn that in 1970 in a multi-district situation, the reported campaign expenditures in that race were $4,000 and that in the Semos race in 1972 under a single district situation or single member district that the expenditures were roughly $6,000?

A Well, I'm not aware of that.

Q All right. In the case of Mr. Hawn, I believe the figure would show a reduction, in other words in 1970 would it surprise you particularly to see that his expenditures totaled about $3,700 in 1970 under a multi-member situation and he was able to spend about $1,000 less than that in the next year in a single member situation. Would that surprise you particularly?

A Yes, it would.

Q You understand I'm asking you there, it went down by about a thousand dollars in 1972, down about a thousand dollars from what it had been in 1970.

A In 1970 we of course had at-large voting in Dallas County and there was the slate politics which was practiced by the DCRG. And in 1972 with individual districts we had to be responsive to the people in these specific areas. And I would expect that the expenses would be less under this arrangement.

Q All right.

A As a matter ofact, in my own race last year there were eight run-offs in the primary. I believe that's correct. And of the eight run-offs I believe that I received more votes than any other member of the Dallas delegation. There were seven others who were running.

MR. YORK: Thank you very much, Mr. Ragsdale.

REDIRECT EXAMINATION,

By Mr. Richards:

Q I suppose Mr. Ragsdale that one explanation for the fact that Mr. Semos and Mr. Hawn may not have spent very much money in 1970 was that they were on the DCRG slate and the DCRG organization financed their campaign for 1970, didn't they?

A Yes.

MR. RICHARDS: That's all we have.

JUDGE GOLDBERG: Anything else?

MR. RICHARDS: Nothing further from Mr. Ragsdale.

JUDGE GOLDBERG: Step down, Mr. Ragsdale. Next witness.

SARAH CATHRYN RAGEL WEDDINGTON

called as a witness, was duly sworn and testified as follows:

DIRECT EXAMINATION,

By Mr. Richards:

Q Would you give us your full name, please.

A Sarah Cathryn Ragel Weddington.

Q You are a State Legislator from Travis County, is that correct?

A I am.

Q Elected in 1972 for the first time?

A Yes.

Q In connection with your election -- by the way, the State has put in some financial exhibits but they haven't put in the financial exhibits with respect to your opponents expenditures in 1972. Can you tell us as best you recall what your opponent Mr. Hornsby reported spending in his race against you?

A It was something over $30,000. $35,000.

Q And the State I think has put in your financial exhibit by the way. What do you recall reporting spending?

A It was in the neighborhood of $12,000 to $13,000.

Q Is that reflective of the effort or the other, the efforts associated with the campaign? Or stated another way, was your campaign based in large part upon voluntary help and donated services of interested citizens?

A Yes. I had a great deal of voluntary help and I spent almost all of my personal time in trying to campaign. And I did as much as I could to avoid spending money. Our campaign headquarters was our home and we furnished the telephone and things like that that are not reflected.

Q So that if you had had to, let's say pay for the help that worked in your campaign --

A I couldn't have done it.

Q All right. In connection with your campaign, did you campaign in the black community of Austin?

A Yes, I did. I campaigned a great deal there.

Q What sort of support did you receive?

A I received a small amount of support from the traditional leaders there. But a great deal of support from others in the community. In the actual voting, I think I probably received in the neighborhood of 80 percent of the vote.

Q Let's see, Travis County is what size now?

A Travis County is about 350,000

Q Do you consider yourself a person who is generally sensitive to the needs of the black community of Austin.

A Yes.

Q And the Mexican-American community of Austin?

A Generally.

Q Are you as a Legislator encountering any difficulties in attempting to be responsive to the particularized needs of these minorities in Travis County, and if so, what are they? If not, tell us.

A Yes, in a variety of ways. One thing is that during the campaign I did spend a lot of time in the community, and in so doing sought out a lot of people in the community of various backgrounds. I talked to them at length about things. I spent a lot of time going to meetings, going to dances and things like that.

During the campaign, we had even talked about how

difficult it was to keep up the lines of communication. And most of the people I met during the campaign I had never known before or had no contact with them. And we did even talk about trying to have periodic meetings among the people who had been active in my campaign in the white community, the black community and the Mexican-American community.

And we found that once the campaign was over, our attention was really just diluted and I tended to go back to my own neighborhood which is 14th street, not very far from here.

But still, I have very few contacts with the black community as a part of my daily life. It is much more difficult to keep up.

The second problem I think is a reflection of the Legislative process. And that is simply that as a member of the appropriations, insurance and criminal jurisprudence, I had a great deal of my time required by committee assignments. So that the number of bills I could carry and affectively get through the legislative process were not that many. And it became then a question of priorities, what bills I would actually work on the hardest. And there again, I guess I tended to work on those bills which I felt personally which tended to be more in the area of women's interest. Those which people came to me and asked me to do and which I thought were worthy.

And I found that the black community and the Mexican-American community simply did not tend to come to me as much with their concerns and therefore I did not feel the pressure of their concerns as much as during the time I served.

Q Is it your opinion that the particularized needs or interests of the black or Mexican-American community in the County tend to be submerged in a county wide legislative district?

A I wouldn't say exactly submerged. I would simply say that when you are striving to represent your constituentency of 350,000 that the interests of the blacks do not exert quite the pressure on you as a public official as they would if you only represented 75,000 and the major part of those were black citizens or Mexican-Americans.

Q We really haven't had any testimony about the nature of the Texas Legislature. As you have observed it, what is required in order to get a piece of legislation through this legislature down here?

A Well, I think a lot of people tend to think simply of introducing a bill and somehow it comes up on the floor. And that certainly is not the case. First, you have to go through the process of drafting the legislation which involves working with the Legislative Council, working with the groups that are involved, trying to go back and check with all of

the different groups that might be affected by the legislation and who have an interest in it.

The second part would be actually introducing or getting your bill introduced. Having it referred to a friendly committee if you can at all which involves talking to the Speaker and other people that might have an interest. Once it gets to the Committee, getting a Committee hearing set. And there are so many bills referred early in the session that it becomes of primary importance that your bill be one of the first ones heard. Then the bill might be referred to a sub-committee. And there again you have to present testimony, contact the other members of the sub-committee, the committee, try to get a favorable vote, try to get it out of the committee.

Then it goes into the calender committee. Then you have the problem of getting it out of the calender committee and on to the calender. The same thing there. There are so many bills referred to the calender committee. I think the figures in the last session were something like 1,300 bills introduced in the house and something like 400 bills were passed. This means that even if you get the bill to the calender committee, it still takes a lot of work to get it on the floor.

Then you have to get it passed which once again involves trying to talk to all of the members and knowing

before it comes up what your opposition is and how you can head it off and have amendments that would take care of problems that the members might have.

So, certainly I think it's very difficult. Introducing a bill is easy, getting it passed is very difficult.

Q Does it require a substantial amount of dedication and veracity, if you will, on the part of the Legislator who is sponsoring any piece of legislation to drag it through this legislature?

A Yes, and especially in consideration of all of the other pressures in terms of committee assignments, in terms of giving speeches in your district and in terms of letters and correspondence that you get from the people trying to know what you are voting on and other legislative contacts about their legislation that's in your committee.

You have to have a real dedication regarding the purpose of the bill in order to take the time that is needed in order to get the bill passed.

Q And it takes, I'm assuming in many instances it takes sometimes constituent pressure upon you or upon the legislator for he or she as the case may be to exert that kind of interest and that kind of a drive, is that correct?

A Well, it may be that you have a non-controversial bill and you can do that. Second, you have enough pressure from your comminity that they cause you to put that pressure

or you feel it so strongly yourself that you put the work into it regardless.

Q What is your own opinion as to the desireability of single member districts both in Travis County and elsewhere across the state.

A I am for single member districts. In all honesty I would have to say as an incumbent it would be much easier for me to run in a multi-member district. I have some feeling that might be easier. But if I were not an incumbent, I would feel even more strongly for single member districts.

MR. RICHARDS: Thank you very much.

JUDGE GOLDBERG: Before we start cross examination let's take a 15 minute recess.

(The Court recessed at 3:32 and resumed at 3:50 PM.)

CROSS EXAMINATION,

By Mr. York:

Q Mrs. Weddington, you testified and I for one would concede it to be correct that you are responsive to the needs of the minority community in this county.

A I try hard to be.

Q Your statements about the inability to respond I take it don't go to any of your personal convictions about making such a response, but were couched in terms of an almost

overwhelming workload that a legislator is faced with in this state.

A What I was trying to say is the process makes it almost impossible for a person who doesn't feel strongly or is not a part of that community to really represent the particular interests that a community has.

Q And that's truthfully a difficulty that to one degree or another is faced by even those from single member districts, is it not?

A I'm sorry, I'm not following you.

Q The difficulty of the great amount of hard work that has to be done as a legislator, that workload is not lessened simply because one happens to be elected from a single member district.

A The only difference would be in a single member district you are repsonding to a lesser number of people and therefore particular interests have a much greater impact on a person who knows they have to run again for election to a smaller number of people.

Q In the course or in the way the legislature works, you are there for 140 days every two years under our present constitution. That's true, is it not? I'm sorry, you have to say yes or no.

A I'm sorry. Yes.

Q And the total number of bills introduced at this

last 63rd session on both sides of the floor, both sides of the rotunda was what?

A I'm not sure. I believe in the House alone it totaled something in the neighborhood of 1,300. And there were many more in the Senate. So, several thousand or more.

Q All right. And as you have described it, each one of those, if it is to be thought of as having a chance of success, if we could put it in terms that the lawyers and judges might understand, is somewhat like an individual in a lawsuit. Each one of those, because it is a matter of marshaling witnesses, being ready at a variety of hearings and juggling just a whole lot of different balls at one time.

A That's correct.

Q And this, as you have described it, this process itself particularly during that 140 day session makes it difficult to do much of anything toward responding to the community unless the community comes down to see you about something, isn't that true.

A Well, it's true that you have priorities and you can't do it all. You have to set priorities in your own legislative service. There are three different kinds of bills. One is the one that has no real opposition like abolishing the job of the public weigher in Travis County where the person elected to that office had asked me to introduce a bill that would abolish the job and there wasn't

really any opposition to that.

Second would be those bills where there is enough community or constituency pressure exerted that you put forth the effort required.

Or third, you personally feel it so strongly that you yourself put forth the effort regardless of any other pressures.

Q All right. And many of those pressures that you have described would be present as a member from a single member district down here from say Harris County, working the same rigerous schedule that you work. He would face many of those same problems in responding to a constituency at home that you have just described.

A That's correct, which gives I think importance to the fact of the amount of pressure a particular group can put on a Representative, and how that's diluted when the representative is representing a much larger group of people who may not share that same interest.

Q In terms of contact with an individual legislator in terms of expressing interest in legislation in the legislative process, at least as it is in this State, could you give the Court some idea about how much of that, not pressure, but that input, whatever comes from what we generally think of as the organized lobby, and I don't say that in a bad way, but organized lobby versus more or less individual constituency

kinds of causes.

A Are you really asking about the legislation that a person carries or how they vote?

Q Well, let's take it in two steps. First, the legislation that you would carry or sponsor yourself.

A Okay. The legislation that I sponsored was basically I guess in two catagories. If some group came to me and I thought the group was very important, I would say yes, I will carry it, like the Kidney Bill that I carried.

The second kind of legislation, when I ran I said these are the things that I feel so strongly about and something needs to be done and nobody is doing it, therefore I'll do it. And so I introduced legislation on this. I felt no real pressure from the organized lobby as to the measures that I introduced. And I did not carry any bills for what I would call the organized lobby.

Q Organized lobby sometimes is used in a negative sense in connection with legislation, but those of you who are in the process I'm sure recognize in many instances that there is very beneficial help that comes from some portion of the lobby in terms of getting information about what a particular bill or set of bills mean.

A That's correct.

Q One of the complaints that has been made from time to time as far as the lobby is concerned is that they are not

a particularly organized kind of lobby for the people in effect, for all of the people, blacks, whites whatever. Is that true?

A I think now there is more than there has been, but is certainly true that groups like banks, savings and loans associations and oil companies and some of the others do have people at the legislature on a regular basis. I was on the insurance committee and we had to hold our meetings in the House Chambers because there were so many people representing insurance companies who attended those hearings. And there were very few people there who were not representing a particular company.

Q So that even a rich white for instance who was against some bill which the insurance lobbist for instance were for, would in many respects suffer the same inability to get to his legislator and express his views as say a poor black in many instances, isn't that true?

A In some respects, that's true. And I think the difference comes from the fact that as a legislator I find in my routine social business daily life contacts that I run into and therefore talk to a lot of people who would be classified as the rich white businessman or white liberals or people in the white community.

I very seldom in my daily life have any contact with what would be characterized as the poor black.

Q All right. Now, you have mentioned the fact that the difficulty of responding to that is partly because of the size of the district that you represent.

A That is true.

Q Indicating that you feel it would be easier to respond to 75,000 people rather than four time 75,000.

A I said of a particular group within the 75,000. They would have greater pressure on me than if they were only a part of the larger community.

Q But doesn't that in a way point out the fact -- for instance, if you made that argument and applied it to Harris County, you would be talking about 18 times -- is that the size of the Harris County delegation?

A I believe it is 17.

Q 17 or 18, much larger than the Travis County delegation in any event?

A What is your question?

Q Isn't the Harris County delegation a much larger delegation?

A Yes, it is larger than Travis County.

Q And whatever problems you would see as being present in Travis County along that line, I assume under your line of thinking that they would be greater from a much larger county?

A You would have to look at the relative size of a

particular interest group versus the size of the entire number of voters who vote in a particular election.

Q Okay. To get to the point that I wanted to make, you would also have to not make a total generalization about what is totally best for the state in terms of single member versus multi-member, but rather you would need to study the particular situation in each county in this state that might have multi-member districts, isn't that a fair statement?

A I think if you are talking about the Court, the Court would have to look to individual circumstances in each legislative district.

Q All right. You mentioned in regard to your race that you had a substantial amount of volunteer help.

A Yes, I did.

Q And that that did not appear in your financial statement or it didn't appear as the amount expended by you to win the Senate.

A That's correct.

Q Others in the county have also had volunteer help, have they not?

A Probably not as much.

Q Okay.

A Yes, everyone who runs for office depends to some extent on volunteers. I was particularly fortunate.

Q Now, you are one-fourth of the Travis County

delegation and you have told us that you believe that you are responsive or want to be responsive to the needs of the minority community of this county. Are there others in the delegation who want to be and are responsive to the needs of the minority community?

A Well, I think anyone who serves and recognizes that every person in the community that's going to vote on you, you try in some way to respond. I think they have the same problems in being as responsive to the particular needs of the black minority community as I do from our general conversations.

Q Without naming names, do you think that all of the delegation is of the same mind as you as wanting to be responsive to the minority community or some or one-third or two-thirds or how would you characterize that?

A I'm really not sure. I would say that the members probably feel a commitment in varying degrees but that all feel some commitment and each of us is subject to different kinds of pressures from the community. Some of us respond more strongly to some pressures than others. But I think all of us share, as I say, the same problems that come from the process, and the fact that we are visitors in certain parts of the city rather than a part of those areas.

MR. YORK: Thank you very much. No further questions.

MR. KORBEL: I have no questions.

JUDGE GOLDBERG: Mrs. Weddington, I want to ask you a question. I'm having a little difficulty phrasing it to myself. I may have difficulty conveying it to you. You have described I think very exquisitely the difficulties of satisfying the particular needs of minority groups in what I would call the political apparatus, the house mechanics. And included in that political apparatus I would add access to you as a representative. I understand your position with respect to that. I want to know if you think if in your opinion as a legislator the particularized needs of the minority groups in Travis County would be better served if they had the opportunity by the division of Travis County into four separate districts, to have those needs articulated, presented and voted upon?

THE WITNESS: Let me answer it in two parts. One would be if you simply divided the community into four parts and for example take the black community as being a part or one-fourth rather than the whole. If I were running in that district, I would be much more aware of the fact that the next time I run I have to go back to that community and show them some positive progress. I feel that to some extent representing the whole, but I am subject to a lot of pressures from other aspects of the community so that their impact on me is diluted.

So I would feel it more strongly if they were a much greater part of the people I am responsible to, the need to speak for them.

The second part I would like to speak to is the question I heard you asking about could I do a better job for them or could someone else maybe do a better job for them. I don't think that that could be answered exactly yes or no. I think I probably can do a better job of representing them than some of the other people I know who have talked about running in this particular district. I know of some other people who happen to be black who are talking about running that I think could really represent them better than I do. In talking to those people, they feel more strongly the particular needs of that community than I personally feel. They have experienced it and I haven't. They are part of that community. They live there. That's the people they know. They know all of the members there and I don't.

So I think there are some people who could run from that district who could represent much better than I do those particularized interests.

JUDGE GOLDBERG: One more question. It's a little more simple. Do you think that the blacks in Travis County, being subjected to the at-large situation have been denied as direct an access to the political process as they

might -- or were they denied it to a greater extent than they would have been if we had single-member districts? That's an opinion.

THE WITNESS: Yes, in my opinion, for two reasons. The first is simply that they have a smaller chance of electing a candidate in an at-large district than they do in a single member. And second, they would have a better chance of having someone who has more personally experienced those problems and could feel a greater dedication. I think part of the reason Representative Ragsdale testified that people come to him is that he often is in, for example, some of the bars in Austin that I do not frequent. And it's easier for people to talk to him in those places than it is for them to come up to my office and talk to me. And so he has the social contact with some of the people in my district that feel more comfortable talking to him than I don't always have and it would be harder for them to talk to me. So I think yes, they would have a better chance of representing a black if it were a single member than an at-large. And second, I think their impact on the person elected would be greater because of their numbers.

JUDGE WOOD: Mrs. Weddington, may I ask you one question. I believe that is pretty well conceded that the black population in your district is about 12 percent.

THE WITNESS: I believe that's correct, Your Honor.

JUDGE WOOD: Now, is the fact that this is a smaller, a somewhat smaller multi-district important and would give an opportunity for greater representation of the ethnic groups than say if we had a multi-district in Houston where you had 22? The contact is closer, is it not?

THE WITNESS: Yes.

JUDGE WOOD: Now, to get down to the basic question that is always asked, when you get to the relatively small multi-member districts such as Travis County and you only have four, which is the better, to have the 12 percent available to all four of these representatives, or would it be better to give them the opportunity to elect only one that would be totally responsible to them, bearing in mind as things now exist in Travis County, and I am addressing myself only to Travis County with this 12 percent and the vast majority of all of them, anyway you cut it, would be Anglo, would not it be better to have all four responsive to this 12 percent because certainly those 12 percent I think could swing elections and do, what is your opinion? I know it's not an easy question.

THE WITNESS: This is just a personal opinion. Okay. I think at the current time, the four of us who are representatives have our attention to for example the black

community diluted by all of the rest of the community so that even though we know that they are there and we do have to pay attention and I certainly campaigned hard for their vote, when you get into the process we still feel that certain dilution, so many other things requiring our attention.

If I served in a district that had say all of the city's blacks in it, I would personally I think probably work much harder for those interests because they would compose a greater percentage of those to whom I had to go back to and answer.

So I think probably in terms of my introducing legislation and my working very hard for it's passage, they would be better off with me in a single member district. As far as whether or not the four of us would vote with them on the final passage, they might be better off in terms of multimember. But their bills will never get to the point of being voted on by the House at-large unless someone feels a particular responsibility for introducing it and getting it through the entire process.

JUDGE WOOD: Well, aside from the question that is sometimes raised that this might tend to polarize the four single member districts, polarize the one where the Black was elected, isn't it true that there will be some dilution with reference to the interests of the other three legislators where they are now responsive and accessable to

that group.

THE WITNESS: Yes, on the final vote.

JUDGE WOOD: Thank you very much.

JUDGE JUSTICE: Mrs. Weddington, you made reference to the situation as it pertains to the blacks who are in Travis County. Do those same views hold good with reference to the Mexican-American community in Travis County?

THE WITNESS: Yes, Your Honor, I believe they do.

JUDGE JUSTICE: Very well.

JUDGE GOLDBERG: Step down.

THE WITNESS: Thank you.

MR. RICHARDS: One housekeeping matter, Your Honor. I intended to do it earlier and I promised the State we would do it. The Plaintiffs have been unable to develop what we consider to be probative evidence with respect to Hidalgo County and do not intend to contend that we have made a case or are able to make a case with respect to that county.

JUDGE GOLDBERG: All right. Where do we stand now on the witnesses?

MR. KORBEL: I have a live witness, Your Honor, representative Truan from Nueces County.

JUDGE GOLDBERG: How many more live witnesses on your side, on this side of the table, Plaintiffs and

intervenors?

MR. RICHARDS: This is it I suppose and our expert I believe, isn't that right?

MR. KORBEL: Well, we have an expert witness. We are still expecting Representative Moreno will come in. He has had some problems I understand with his connections.

JUDGE GOLDBERG: Anyway, go on with this.

CARLOS F. TRUAN,

called as a witness, was duly sworn and testified as follows:

DIRECT EXAMINATION,

By Mr. Korbel:

Q My name is George Korbel representing the Plaintiffs Morano, et al. Would you state your name and address for the record, please.

A My name is Carlos F. Truan. I live in Corpus Christi, Texas, 3821 Marion Street.

Q What is your occupation?

A I am a life insurance agent.

Q Are you also a State Representative?

A And I'm also a State Representative, yes.

Q When were you elected, Representative Truan?

A I was first elected in 1968.

Q And you've been subsequently elected, is that correct?

A I was elected in 1970 and 1972.

Q When you were originally elected in 1968, can you describe the shape of the district from which you were elected?

A Well, our district consisted of two counties, Nueces County and Cleberg County.

Q And Cleberg County would be the Kingsville area, is that correct?

A Yes, Kingsville.

Q And is Kingsville still a part of your district?

A No. By 1972, Cleberg County was taken away from our district. And in fact, the western part of Nueces County was taken away. There are only three representatives now representing the metropolitan area of Corpus Christi which also includes Robstown and Driscoll, a real small community.

Q I see. This morning we heard from Senator Owen former Senator Owen and he testified that Mexican-Americans did have particularized needs, but he was having trouble naming some of them. Can you do better than that?

A Most certainly. I think that it is certainly the mentality of a lot of people who have not experienced poverty, who have not experienced an equal education opportunity that many times are mislead as to what the problems are. The people of our state and the Mexican-American most

especially need to have an educational system that will give each child an opportunity to grow within the system. We have had under the present educational system in Texas a tremendously high drop-out rate. We had an 80 percent drop-out rate among Mexican-Americans in Texas according to the Texas Education Agency. We have one of the worst rates of illiteracy. We have more working poor in Texas than any other state. We have some three to four million adults in Texas that don't have a high school education.

We had until just recently many counties in Texas that did not furnish even food commodity programs. And we now are facing into a food stamp program that I have authored.

Q Can you describe for the Court some of the legislation that you have authored to deal with these problems that you have isolated and explain it.

A Yes. I authored -- when I say I authored, I don't mean to say that I was the only one because I had assistance, but I was the primary author on the Texas Bilingual Education Act.

Q How many co-sponsors were there of that bilingual education act?

A 77 co-sponsors in the House.

Q Okay, go ahead.

A I authored the Texas Adult Education Act. I also authored legislation relating to the testing of students.

That is, children having been placed in classes for the mentally retarded or special education classes on tests that did not measure their intelligence but were essentially oral tests. And children coming to school speaking little or no english failed those language tests and they were placed in classes for the mentally retarded. So we corrected that situation by legislation this year. The legislation now calls for the students to be tested in the language that the child understands.

Q I understand.

A I authored also legislation in the House relating to the definition of total and permanent disability in order for people to qualify for assistance from the State. Our definition of total disability provided that a person had to be totally and permanently disabled and did not provide assistance for people that were temporarily disabled and needed assistance. The bill however died in the Senate.

I passed a bill in the House to provide by statute for a food stamp program in Texas. We only have authorization for a food stamp program by way of a rider in the appropriations bill which is not a statute. And we need in Texas to pass a food stamp law and not have it repealed by just a simple amendment on the floor of the House. The food stamp bill passed the House this session. I was the primary author and it failed in the Senate.

I have authored for three sessions now a bill to create a human relations commission. This session we were able to get the bill out of the committee died in the calendar committee.

Q Who is the chairman of the Calendar Committee?

A The Chairman of the Calendar Committee?

Q Yes, that's correct.

A Representative Carl Parker.

Q Where is he from?

A He is from Jefferson County I believe.

JUDGE GOLDBERG: Port Arthur.

Q (By Mr. Korbel:) What was the problem with the Human Relation Commission Bill? Was there opposition throughout the State House to that bill?

A Well, we had some support in our Human Resources Committee. But anytime you have civil rights legislation or legislation that proposes to assure that people have equal opportunities, you run into a great deal of opposition in the State Legislature.

Q What would this Human Relations Commission Bill have done had it passed?

A The bill would have created a permanent commission consisting of nine members, three of which would have been, would have represented the major groups in the state, three Mexican-Americans, three blacks and three Anglo-Americans.

The commission would have been full time. It would not have been an honorary or part-time commission. It would have had the power to issue cease and desist orders, to subpoena. In effect, to bring about to reality to things that it is assumed people have as a result of the civil right legislation that was passed by the 63rd Congress.

In essence, the commission would have assured that every citizen in our state regardless of race, creed, color, age or sex would have had equal opportunities in employment, education and whatever field of endeavor.

Q How about landlord-tenant relations? Looking at your legislative record, I see you are involved in that also.

A Yes, I'm sorry I failed to mention that. I have authored landlord-tenant legislation since 1971. At that time I introduced a broad code recommended by the American Bar Foundation and the bill got bogged down in the committee. And it was never reported out. This session I devised a landlord-tenant bill into seven different bills, proposing to give landlords and tenants equal rights and responsibilities and remedies. We have no statutary laws in Texas or did not have until this year relating to the relationship between the landlord and the tenants. We have found so many of our people, especially the poor and needy that have to rent that don't have enough money to buy their own property that have been subjected to alot of discriminatory acts simply because

they did not have access to an attorney. And there was no law that proposed a model contract to assure that people have their rights safeguarded by law.

Q. Was in fact this landlord-tenant bill passed?

A. The Landlord-Tenant Legislation failed completely in 1971. It got killed in the judiciary committee in the house. In 1973, this year, the lobby for the apartment owners came in with a compromise measure which incorporated essentially some three of my seven bills and the legislation was passed into law.

Q. In 1971, who was the Chairman of the Judiciary Committee?

A. Representative DeWitt Hale.

Q. Now, with reference to adult education that you talked about, the bill which you introduced regarding adult education, can you describe that just briefly?

A. The adult education bill provides state funding for classes to allow adults who have dropped out of school for one reason or another to come back to the class room free of charge in order to study and get a high school equivalent diploma. The legislature appropriated 4.3 million dollars. The Federal Act that provides for adult education only provides adult basic education for up to the 8th grade. My legislation would continue through high school through the 12th grade. And also

there is a provision that was not funded that would provide for skilled training.

Q. But that was passed, is that correct?

A. Yes, that was passed this year. This is also the third term that I had introduced the bill and it passed into law.

Q. Was Representative Tarbox from Lubbock one of the co-sponsors of that bill?

A. No, he did not sign as a co-sponsor of that bill.

Q. Okay. We have testimony in the record from Dr. Garcia from Nueces County, from Travis Peeler who is the present Democratic Charman and from others that there has been a real polarization, racial or ethnic polarization in the community. Can you comment on that?

A. I believe that the polarization in the community has been brought about in recent years as a result of a Court case commonly referred to as the Cisneros case that has been pending in the Federal Courts for some time where it was found that there was a defacto and a de jure segregation in the Corpus Christi Independent School District. And one of the solutions that was proposed to bring about integration was the matter of transportation. And as we all know over the nation there has been a great deal of opposition to transporting students. An organization came into being in Corpus Christi called the "Concerned Neighbors". and they

were very outspoken with respect to being opposed to any type of transportation. And this has caused a polarization in the community, needless to say.

Q. And has this been along racial and ethnic lines?

A. It has essentially boiled down to that because of the findings of the Court.

Q. There are a couple of other bills I wanted to ask you about. I understand that you voted against the raise in interest rates, is that correct.

A. I'm sorry.

Q. You voted against the raise in interest rates?

A. There has been legislation introduced since I've been in the legislature every year to increase interest rates. These bills are commonly referred to as loan shark bills. I have not only voted against them, I have taken a leading role against them.

Q. Did in fact this year Representative Salem and Representative Hale from Nueces County vote in favor of allowing a raise in interest rates?

A. The original bill allowed for a given amount of rate increase. And the three of us voted against increasing the interest rates at that certain level which was a little more than what eventually was voted in the House. And I voted against increasing it even at the lower amount. And if my memory serves me correctly both of them supported the

interest rate even after it was reduced.

Q. There is another bill that you co-sponsored and that's establishing the University in Corpus Christi, isn't that correct?

A. Yes.

Q. You co-sponsored that with the other members of the Nueces County delegation, isn't that Correct?

A. Yes, our delegation co-authored a bill creating a branch of Texas A&I University in Corpus Christi.

Q. Do you suppose that if the Court ordered single member districts or if single member districts came into being in some way the Nueces County delegation could still get together and pull together on bills which would be good for the common well-being of Nueces County?

A. I don't see any reason why not.

Q. So that if the County was fragmented into single member districts, it really wouldn't affect issues like the University of Corpus Christi which would be of interest to the entire county?

A. I don't see how it could be affected. I think it would allow for representatives like myself that have specific interests in helping people that are less fortunate than others attend to those needs without having to dilute my attention and my time among so many other areas that take away from the specific problems I feel so strongly about that

need to be solved in this state.

Q. Now, until you were elected to the Legislature -- let me rephrase that.As a preface to your introducing the bilingual education act for the State of Texas, did you in fact have to author a bill to repeal the State law which prohibited the speaking of Spanish on school grounds?

A. In 1969, I authored a House Bill 103 which repealed a prohibition that had existed in the statutes since 1917 which prohibited the teaching of any other language except English. Essentially, bilingual education was not allowed. It was a State Law. And the passage of this bill which I introduced and engineered through the Legislature allowed some $3,000,000 in Federal money to come in each year into Texas as a result of the passage of that bill. That's not to be confused with the bill we passed this year.

Q. And the Bilingual Education Bill that you passed this year, I believe 2.7 million dollars was appropriated for bilingual education, is that correct?

A. That's correct.

Q. Is that the amount that was in your original bill that you authored?

A. Our original request was for 6.4 million dollars. The Legislature in it's wisdom appropriated only 2.7 million dollars which will not do as much as we of course could do as a State with the original request by the Texas Education

Agency of 6.4 million dollars.

Q. But you are the author of the Bilingual Education Bill, is that correct?

A. I am the primary author in the House. And Senator Ted Brooks was the author in the Senate. It was Senate Bill 121 which Senator Brooks passed over and I carried the bill in the House. I had introduced House Bills 145 and 146.

Q. Can you tell me why you favor single member districts?

A. I think that's a good question because I think a person that has been in the Legislature as long as I have, having been elected a third term from a multimember district coming here to testify in favor of single member districts is certainly an indication that I feel very strongly. The reason I do is because I see what has happened first of all from the other areas that are represented now by single member districts, namely Dallas County, Harris County and Bexar. I also feel very strongly that by having individual single member districts, a member of the Legislature can best represent the specific needs of the people in his district. There are so many needs of people that are different and varied and there are so many bills that are introduced that cut across all lines of economic, political persuasion religious beliefs or whatever.
But in my opinion in order to do an adequate job for the people in Texas and for our constituents, by having

single member districts a member can devote more time to the needs of the people in his district. And people like myself that have a particular philosophy with respect to correcting some social ills can do a much better job without having to worry that you need to be concerned about a much larger area, and it would be very hard to do an adequate job when you dilute your time among so many different interests.

Q. In fact, Representative Truan, when you are a representative from a multi-member district such as Nueces County which includes a substantial number of minorities and an even larger number of Anglos, do you find yourself worried sometimes about the type of legislation you can introduce to alleviate some of the problems you identify in the barrio areas?

A. That's very true. I have tried during my time in the Legislature to correct some inequities, things that have existed for years that I feel should not exist. And yet, there are people that just don't believe in helping other people. There are people that don't believe in helping people that are hungry for example. I believe in providing them with food. There are people that don't believe in providing bilingual education, even though we have an 80 percent dropout rate which is horrible, to say the least. It's my opinion that we need to correct those inequities. And I propose solutions to problems.

And unfortunately, because a person does what he thinks needs to be done, he arouses the opposition of the rest of the community that does not have those particular problems. They have enough food on their tables, their children are monolingual, English speaking children, that both of their parents are English-speaking.

In essence, what I'm saying is a public official in the Legislature can profess to represent all of the people, but essentially he has certain specific solutions to problems that some people are going to be for and some people are going to be against. And anyone that says that they always going to represent all of the needs of all of the prople, in my opinion serving in the Legislature three terms, you just can't possibly do justice because there are certain things that you believe in that somebody else is not going to take the same position.

And I believe that by single member districts you allow a representative to be elected in a small area. He has a better chance of getting to know his constituents. He can carry on a campaign more economically. He doesn't have to worry about having to subject himself to the very expensive television, radio or newspaper campaign. And essentially, you build up more interest and more participation on behalf of the citizens.

Q. I'm going to show you what's been identified as

Plaintiff's Exhibit 43a. Can you describe for the Court what Plaintiff's Exhibits 43a and 43b represent? Have I shown this to you before?

A. I examined this before I was called to testify. That is a map of the city of Corpus Christi.

Q. Yes, that's correct. And can you identify what has been identified here in orange? I am referring to Plaintiff Moreno's Exhibit 43b.

A. That is the so-called corridor I believe is the correct name for it which includes practically all of the Mexican-Americans that live in Corpus Christi.

Q. And in order to speed this up, these red lines represent census tract lines. And in the map underneath, referring to Plaintiff's Exhibit 43a, represents the precincts in Corpus Christi so that we can compare the census tracks with the precincts. Furthermore, there are dots on this map. These are the races run since 1960, is that correct, with the exception of 1970, I believe. The circles with a dot in the middle are the races won. Can you indicate for the Court which precinct most of these candidates, most of the elected candidates live in?

A. From the map there, obviously it's the south side of Corpus Christi and particularly precinct 65. I'm sorry, I'll have to look at the map close to indicate --

Q. Would it be 64?

A. 64 and 65.

Q. Would it be fair to say that most of the candidates have come from the area south of Weber Road?

A. That's correct.

Q. Okay. There is a real cluster of candidates here and I am referring to Plaintiff Moreno Exhibit 43b, in the lower left hand corner of Precinct 65. There is quite a cluster. Can you tell us who lives in that cluster?

A. Among members of the Legislature?

Q. Yes.

A. Both Representatives Hale and Salem.

Q. Do they live literally next door to each other?

A. I think they only have one house separating them.

Q. There is one further matter which I should have taken care of at the beginning. Are you the Chairman of any committees in the State Legislature?

A. Yes, I am the Chairman of the House Human Resources Committee and Vice-Chairman of the Life and Health Insurance Committee.

MR. KORBEL: I have no further questions, Your Honor.

JUDGE WOOD: Mr. Korbel, have you offered this?

MR. KORBEL: Yes, it has been offered and received.

JUDGE WOOD: It is received in evidence. I wanted

to be sure as a housekeeping matter you hadn't forgotten it.

MR. KORBEL: Yes, Your Honor, that's correct.

JUDGE WOOD: Very well.

CROSS EXAMINATION

By Mr. Gladden:

Q. Representative Truan, I believe you testified that there were 77 co-authors to your legislation relative to bilingual education this session?

A. Yes, sir.

Q. I understand one of those was Representative Gib Lewis from Fort Worth, is that correct?

A. That is correct.

Q. Could you rate Mr. Lewis in terms of contribution to the passage of that legislation among those 77? In terms of energy and effort, did he contribute to the passage or did he just co-author it like most of the others?

A. He signed as a co-author and he voted for the bill.

MR. GLADDEN: I believe that's all. Thank you very much.

CROSS EXAMINATION

By Mr. York:

Q. Representative Truan, we are discussing here in this case a variety of sizes of districts as I'm sure you are

aware. This Court is looking at, I suppose, the largest in this nine, Tarrant County, down to two in Hidalgo County. In that spectrum of extremes, we know that the Court has already declared that in Dallas County, which I believe had 18 Representatives, that a single member setup was mandated. At the other end of the extreme, as you know from being in Court today, we have Hidalgo County, where the Plaintiffs have gracefully confessed they can't make a case for single member districts. Would that indicate to you that there is a need to look individually at each county to determine the need for single or multimember districts and that one can't paint the whole state with a broad brush on this question?

A. Well, I can tell you what I feel very strongly about as a result of my being in the Legislature, and that is, that we need to have single member districts throughout the State of Texas in order to have representatives running from an area which is populated in my opinion about the same as any other district. The concept of a single member district comes to bear very strongly, so when you see even in your own reference to Dallas County the difference in representation for the issues that affect people, and as a result of my experience with people that come from single member districts I recommend very strongly that the State as a whole have single member districts.

Q. That's what I want to focus on. I want to ask you if it's not true that there is a difference between what an individual legislator might prefer as a matter of legislative policy for the Legislature to do, there is a vast difference in that than saying that a single member district or a multimember district is somehow an unconstitutional concept.

Now, we have heard I think your view, your own personal view of what ought to be and what you would like to see. I would like to focus on the constitutional issues that are before this court. Do you understand the distinction between the two kinds of questions?

A. Yes.

Q. All right. For instance, I want to read you a statement made by --

MR. KORBEL: Your Honor, I wonder, it seems to me he's not a lawyer --

JUDGE GOLDBERG: I've listened to the question pretty carefully and I don't think he is quizzing him on constitutional law.

Q. (By Mr. York;) I would like to read you a statement made at a former hearing in this case by Counsel for the Mexican-American Legal Defense Education Fund and ask you whether or not you agree with it. I am reading from page 1273 of the record in this case. "Now, if we had an urban

type society..." This is Counsel for the Mexican-American Legal Defense Fund talking. "Now, if we had an urban type society like we have in this country, if we didn't have these tremendous metropolitan areas, city, perhaps a two or three or four multimember district could be justifiable. In fact, the Court I think may be wondering about that, judging from the questions.

"yes, we do have some multimember districts with two or three representatives. Perhaps we may not have yet reached the point population wise in those particular districts to think about giving them single member districts. I certainly don't want to advocate that at this point. But I think I recognize what the Court has in mind when he raises this question, but certainly regardless of what we may conclude as to these two or three multimember district counties I believe the same thing does not apply to one that has 11 representatives as in Bexar County or another one that has 18 as in Dallas County."

Would you generally agree with that statement made by Counsel for Maldef in this case?

MR. KORBEL: Your Honor, may I object to this at this point? We are talking about a statement made in the final argument in the last case and I think it was in response to the Court's question. The question was "Are you questioning all multimember districts at this time?" And I think that

the response which eventually involved there was that we just haven't had time to put everything in it, and we are only talking about the 11 and 18 man districts.

JUDGE GOLDBERG: Well, Mr. Korbel, without getting involved in the technicalities of it, he is asking the witness whether or not in his opinion multimember districts are more of a necessity in smaller counties than in large counties. He can phrase it 22 different ways. And he read this statement. That's what the question is, isn't it?

MR. YORK: I believe that's about it, Judge.

JUDGE GOLDBERG: Let him answer the question.

A. Let me say, I don't have access to all of the testimony that was presented that led up to whoever made that statement on behalf of MALDEF. It is my position and my belief that by having single member districts, whether it is a major metropolitan area like the area of Dallas County or in a smaller area, whether it is Nueces County or the valley, that you are going to have a much better situation with respect to people running in single member districts.

You are asking me to agree or not agree with a particular statement that was made with respect to whatever testimony was put together, which I'm not privy to at this time.

Q. All right. I take it that your statement about single member districts would be true if one could invision

a county that say had two representatives in a multi-member district than if you would invision a county as being say all Anglo and everybody made between $8,000 and $10,000 a year, in other words, a totally homogenous kind of county that did not have any minorities in it, that you still as a philosophical policy matter prefer to see that county have a single member district setup as opposed to a multi-member district.

A. Well, I can see that under the present situation that we have had in Texas, it has deprived a lot of candidates from running that would have taken a great deal of money and support to get elected. I think this is one of the main problems we have had as a result of our not having had single member districts in the various counties, that the representations from there in my opinion has been more down to the specifics of the people in those counties, the areas that are populated. In a county you are saying where there are no minorities, just one big majority vote, I'm not so sure but that single member districts would work there too because we still have people running for office.

Q. That's what I wanted to separate if I could in a way. You don't necessarily say that you are for single member districts because of discrimination problems. That may

be part of it, but you are for it across the board as a philosophical matter, is that true?

A. Well, there are single member districts that could be drawn that would completely dilute a given minority which I would not want to answer your question in the affirmative and then allow you to assume that I would be in favor of a district that completely gerrymanders and does not give minorities an opportunity to have one of their own elected.

Q. Well, what is the make up of Nueces County by ethnic group?

A. It is approximately 44 percent Mexican-American and about four to five percent black.

Q. About 55 percent Anglo or thereabouts?

A. Yes.

Q. Now, is the voter registration in Nueces County like it is in many counties? That is, you find that Mexican-Americans are not registered to vote in the same percentage that Anglos are?

A. I find that Mexican-Americans in my area are probably registered 40 percent or less. I don't have the specific figures.

Q. Generally, the Anglo population, what would their rate be on registration?

A. Judging from the number of people that have voted compared to the number of people registered, I would say that

there are a greater percentage of Anglos that have registered to vote than Mexican-Americans.

Q. And is there a greater percentage within the registered group that goes to the polls, or are they about the same in the two ethnic groups, or do Anglos go more or less or what?

A. I don't want to give you information that I don't have documented because very frankly I've been out of town all of last week and I just got in yesterday and I didn't go through these figures.

Q. I don't want to pressure for a specific figure, but in generalities.

A. In a general sort of way, I would say all things being equal that whatever percentage have registered, the Anglo votes in a larger percentage than the minorities.

Q. Okay. Given those percentages, if the vote were totally polarized, that is, if Anglos always voted for the Anglo candidate, and the Mexican-Americans always vote for Mexican-American candidates in a race in which an Anglo is facing a Mexican-American, the Mexican-American would just never win if it were totally polarized, would he?

A. If it were totally polarized, I guess that would be a safe assumption.

Q. All right. But we know from the fact of your presence on the witness stand as a Representative, Carlos Truan, that there cannot

be total polarization.

A. There is not total polarization. We have a situation in my area that I'm sure is not unique, because of the situation that I told you that started out as a result of the school case. The situation in our area is not good, its not a good situation. There has been polarization since the school case in Corpus Christi. And if you don't mind my telling you, I won by a real large majority my first time. I did not have opposition my second term, 1970. In 1972, last year, I had one opponent who was totally unknown and I won by a very small majority. And the problem is getting greater and its probably going to be hard for me to get re-elected because of the legislation that I have carried like I just indicated.

Q. Well, in your view, is your difficulty this time or your difficulty any time getting re-elected, would you relate it solely to the legislation you carried?

A. Well, I think the situation is not the same throughout. We have situations that have been brought about in my case because of my specific support for legislation that I felt needed to be passed. And I suppose there are people that would be against me regardless of what type of legislation I passed. That's to be expected. But I would think, compared with the other two previous races, it boils down to the type of political philosophy, the legislative program and that has

contributed immensely to the opposition.

Q. You have described that to us earlier as being a situation where this polarization, at least in your view, has sort of been caused by or has followed the Court case going on in Corpus Christi concerning, among other things, the busing of school kids. Right?

A. That's true.

Q. And that controversy came to us fairly recently and hopefully will be over before too long.

A. I hope so.

MR. YORK: I just wanted to get that into the record, Your Honor. I was speaking of course about the controversy in Corpus Christi.

JUDGE GOLDBERG: We understand.

Q. (By Mr. York:) I don't know whether you have been present here during very much of this case, whether you have watched very much of the testimony, but if you have you would have noticed that in each of the counties that we've talked about, the Plaintiffs and the intervenors have been careful to advise the Court as to how many persons from minority groups presently hold office in those counties. And there was a marked lack of those questions by Mr. Korbel to you. So, let me ask you, is the District Clerk of Nueces County a Mexican-American?

A. That's true.

Q. Oscar Soliz?

A. Oscar Soliz.

Q. How is your city Council made up in Corpus Christi?

A. The city Council consists of the Mayor and six councilmen. Three of the Councilmen are Mexican-Americans and one is black.

Q. The other two are Anglo?

A. That's right.

Q. All right. And the population of your county is about 40 percent Mexican-American and you represent 33 and one third percent of the county in terms of you being one third of the delegation, is that right?

A. I guess.

Q. Now, what college is it? Is it Delmar?

A. Delmar College.

Q. Is there a Mexican-American Representative on the Board of Trustees of that college?

A. There is one member of the Board of Regents among -- I don't remember how many.

Q. All right. And Mr. Soliz, when he ran, ran against an Anglo, did he not? The District Clerk?

A. There was an Anglo in the run-off against him.

Q. Right. And Judge Garza, one of the County Court at Law Judges?

A. Judge Garza.

Q. And did he run against a young Anglo lawyer to win that seat, to win that bench?

A. Well, they ran for that position at the same time. Jack Kelso, the lawyer, was not the incumbent. But they did run against each other.

Q. Right. The Mexican-American won over the Anglo, is that right?

A. Judge Garza got elected.

Q. All right. Now, what other offices are held say in the Courthouse by Mexican-Americans?

A. We have the first County Commissioner elected, Solomon Ortiz, after the commissioners drew their own single member districts. And he is the first one. I am the second Mexican-American elected since reconstruction. Besides those you have named, we have Judge Hector Pina, County Court at Law also.

JUDGE WOOD: Are those at-large, those County Court Judges?

THE WITNESS: It's in the whole county. We have a Justice of the Peace that runs in a precinct, Manuel Cantu. It's not the whole county of course.

Q. That precinct in terms of work load, it includes the city of Corpus Christi, does it not?

A. I'm not so sure of that. The other JP whose name I have forgotten seems to have a lot of controversial cases

coming down from the city. So I don't know. Manuel Cantu has the whole city. I don't know their district boundries. We have a Constable who is a Mexican-American but has an English surname of Wilbur. I think that's all.

Q. Okay. Now, DeWitt Hale is one of the members of the delegation, is he not?

A. That's true.

Q. And he is an honorary life-time member of LULAC, is he not?

A. I would assume that if your information shows that.

Q. Well, he swore to it in his deposition. I'm sure you wouldn't have any occasion to dispute that.

A. That's right.

Q. I don't suppose LULAC would have that out as a reward for being unresponsive in the Legislature, would they?

A. Well, Mr. Hale has been a distinguished member of the Legislature for many years.

Q. I know that. I know you have served and worked with him for the time that you've been there.

A. Representative Hale is best known for authoring the Hale-Aiken Act. And it wasn't until 1969 that we repeated the prohibition against bilingual education when I came to the Legislature. And it wasn't until 1973 that we were able to pass the bilingual education act and the adult education act and the bill relating to the testing of students, which

more specifically gets down to the needs of the Mexican-American children.

Q. The reason I asked you that about Mr. Hale, I may have taken the implication wrongly from the question that was asked, but you had some bill which you were interested in which apparently didn't get out of the judiciary committee which Mr. Hale was chairman of, I believe. And Counsel asked you did the bill die in committee, and the next question was who was the Chairman. And you said it was Mr. Hale. Did you mean at all to imply that Mr. Hale had anything to do with the killing of that bill?

A. No, I was answering the question.

Q. I know.

A. The legislation he had reference to was the landlord-tenant legislation. And I'm just answering your question. He happens to be the Chairman of the Committee. That question was asked.

Q. Just the fact that the lawyer put the two together might give that implication to someone who might be listening?

A. I'm going to answer your questions. You can draw your own conclusions.

Q. Okay. The fact is, Mr. Hale who has been a member for a very long time, since 1952, with one gap of maybe several years in the early 60s, has been a pretty responsive member to the needs of the Latin Americans and Mexican-American

community in that area and throughout the State, has he not?

A. Mr. Hale has a very distinguished record serving in the legislature. I think the difference is that when you get to the specific needs of the Mexican-Americans, just like the specific needs of blacks, we can't many times understand those situations unless we have -- and I'm not saying all, but there are certain situations that you can't fully appreciate what is to be physically punished for speaking Spanish even though your parents speak that tongue all the time, unless you go through that.

You can't really appreciate the value of bilingual education unless you have been physically abused for speaking a language that your parents have spoken.

You can't fully appreciate not having any food on the table unless you have had that experience. And so if you have an opportunity to push for legislation creating the food stamp program statewide, you are going to push for that specific legislation.

There are things that a well meaning representative such as Representative Hale is, that he's not going to have the same type of drive on those certain things that I have mentioned. And it comes about because if you have a particular background they you know more about a particular situation than I do.

Q. Well, you don't have to be brown to have been

hungry, do you?

A. No.

Q. You don't have to be black to have been poor?

A. That's right.

MR. YORK: Okay, thank you sir.

REDIRECT EXAMINATION

By Mr. Korbel:

Q. How many -- I didn't mean to abuse the Court --

JUDGE GOLDBERG: You didn't abuse the Court. Proceed.

Q. (By MR. Korbel:) How many representatives have been elected since reconstruction in Nueces County who are Mexican-Americans.

A. There are two.

Q. How many Mexican-Americans have been elected county wide since reconstruction that are Mexican-American?

A. As far as I know, the only ones are those that are serving now.

Q. That would be five.

A. Five.

Q. Well, four I suppose because that would exclude Tony Bornillo who is no longer a State Representative.

A. Yes.

EXAMINATION

By Judge Goldberg

Q. If nobody else has any questions I'd like to ask one question. Do you believe that multi-member districts in Nueces County have denied the Mexican-American population in Nueces County access to the electorial machine as distinguished from the legislative apparatus? Do you understand the question?

A. Would you repeat it, please.

Q. All right. Do you believe that multimember districts in Nueces County have denied the Mexican-American population in Nueces County access to the electorial machinery, do people get elected, as distinguished from the legislative apparatus, by which I mean how bills are passed, you vote for them and what you do about them.

A. When you consider that we have had poll tax in the past, that even the $1.75 that it cost, a lot of people did not have that money and could not pay their poll tax and therefore did not have the right or were not certified to vote. When you take that kind of consideration, if I'm following your question, then certainly Mexican-Americans because it is the largest minority group in Nueces County, and because there is such a great deal of poverty that it has indeed denied people access to the electorial process.

EXAMINATION

By Judge Justice:

Q. Do you feel that there has been any carry over from the past because of the lack of participation by Mexican-Americans induced by the poll tax requirement?

A. I think it has carried over in more ways than one because it takes a while for a generation to get involved in community affairs. And the people that were preconditioned to the poll tax and their lack of voting certainly did not train their children about participating in community affairs when even they were not participating. So it has carried over.

JUDGE GOLDBERG: Now, let's see, how do we stand on live witnesses? You have what, Mr. York, tomorrow?

MR. YORK: Your Honor, we have either one--

JUDGE GOLDBERG: You may step down. You are excused.

MR. YORK: We have either one or two, Your Honor.

JUDGE GOLDBERG: Pretty short?

MR. YORK: They will be short. They are of the same general nature that we have had and they should be not more than 45 minutes or an hour on direct and cross.

JUDGE GOLDBERG: And what about you?

MR. KORBEL: We have only one live witness and that would be our expert who is going to sum everything up. Two hours, no longer certainly, Your Honor.

JUDGE GOLDBERG: For both of you?

MR. RICHARDS: All of us.

JUDGE GOLDBERG: And what about you?

MR. GEORGE: We have the same expert.

JUDGE GOLDBERG: In other words, you think a cruple of hours you can handle your part of it, and you think an hour and a half you can handle yours. Is that pretty much of it?

MR. YORK: When I say an hour and a half, I'm including direct and cross.

JUDGE WOOD: We should be finished a little after noon tomorrow? Do you think by 12:30 we will be finished?

MR. KORBEL: You, I would think so, Your Honor.

JUDGE WOOD: And then you can start arguing this case at 1:30?

JUDGE GOLDBERG: The Court stands in recess until tomorrow morning at 9:00.

(The Court recessed for the day.)

AUSTIN, TEXAS

DECEMBER 5, 1973

THIRD DAY OF TRIAL

JUDGE GOLDBERG: Good morning. Are we ready for the last heat?

MR. RICHARDS: I had one brief housekeeping matter that I would like to attend to.

JUDGE GOLDBERG: Before you do that, may I ask to say something and get an expression from you? I must have left the courthouse earlier than a lot of you did yesterday afternoon. I understand there is no pressing urge on the part of any of the attorneys in this case to make an oral argument in view of the fact that we're going to have--going to request extensive briefing. No one has any feelings that he has any intonations of immortality that he wants to verbalize, or is that information--am I wrong about that? Do you have any feelings about oral arguments Mr. Korbel?

MR. KORBEL: I don't feel particularly verbal myself, Your Honor. I would just as soon write an extensive posttrial brief.

JUDGE GOLDBERG: Go around

MR. BONNER: I feel the same.

JUDGE GOLDBERG: Mr. George?

MR. GEORGE: Affirmative.

JUDGE GOLDBERG: Mr. Richards?

MR. RICHARDS: I certainly defer to the wishes of the majority on that.

MRS. LEVATINO: I hesitate to speak for Mr. York, who likes to speak, but I'm sure he will be willing to waive oral argument.

JUDGE GOLDBERG: Mr. Black?

MR. BLACK: It's all right with me.

JUDGE GOLDBERG: Mr. Gladden?

MR. GLADDEN: That's fine.

JUDGE GOLDBERG: Well, unless Mr. York has a contrary position, and we'll hear from him-- he will be here this morning, will he not, or you will get in touch with him?

MRS. LEVATINO: I'm sure he will waive oral argument.

JUDGE GOLDBERG: We will discuss at the conclusion of the testimony the modus operandi from here on out.
Now let's get on with the heat.

MR. RICHARDS: I have marked and would offer now as Wright Exhibits Nos.29,30, 31, and 32 certain summaries that have been

previously tendered to the State. They are as follows:

Let me just state how they came into being. I had a young law student do certain search for me in the newspapers that were available here, the Austin American Statesman is my 29; the Waco Times Herald is my No.30. The Beaumont Enterprise is No. 31, my exhibit. The Corpus Christi Caller is No.32. The research was simply this. He took the month of October in certain selected years, simply scanned the classified ads to determine the frequency of racial designation with respect to housing and employment, and these constitute the summary of his findings.

We have previously not only shown it to the State but given them the chance to discuss it with him, and we have backup data for the summaries. For example, in Beaumont it was still as late as 1967 that it was still listed as "housing for sale - colored". This is the pattern of the exhibits, and I think that they are self-explanatory.

JUDGE GOLDBERG: Mr. Black?

MR. BLACK: May it please the Court, we are not objecting to these on any grounds of authenticity. We're admitting that these

things appeared in the paper as set forth. We do, however, object to them for the hearsay content, and even more seriously, we object to them as being completely remote from any issue in the case and irrelevant.

JUDGE GOLDBERG: We will accept them as being authentic, and the Court will make up its mind as to the competency or relevancy.

MR. RICHARDS: We do not deem them to be heresay, because we are prepared to tender witnesses to say that this is what the newspapers said.

JUDGE GOLDBERG: He says that he agrees that that's what the newspaper said on the date and that the summary is accurate. He doubts that it is competent, so I don't think that this would be a matter of serious dispute.

MR. RICHARDS: Thank you, Your Honor.

JUDGE GOLDBERG: Now, who is up next?

MR. KORBEL: George Korbel representing the Plaintiffs Moreno, et al.
Your Honor, I would like to say one thing about these exhibits which Mr. Richards has just offered. The fact that we do not have the same study for Lubbock and El Paso doesn't mean that

that type thing doesn't exist in the papers. They just weren't available---.

JUDGE GOLDBERG: Mr. Korbel, that's pure argument partly of a testimonial nature.

MR. RICHARDS: Well, Your Honor, please let me say that the El Paso papers were not available, and that's why we did not have the research there.

JUDGE GOLDBERG: You could probably say that about 22.000 others.

MR. RICHARDS: I'm sorry, Your Honor.

JUDGE JUSTICE: Who will be your next witness?

MR. RICHARDS: Charles Cotrell. He's our expert, Your Honor.

JUDGE GOLDBERG: It looks like you've got some arms with you.

MR. COTRELL: It's a cook's tour.

MR. KORBEL: In the interest of brevity, Your Honor, this is the same Dr. Charles Cotrell who testified in the last hearing, and I think we can stipulate with the State that his qualifications are the same as they were before.

JUDGE GOLDBERG: Maybe you better.

JUDGE JUSTICE: Well, would you remind us of his qualifications?

MR. KORBEL: Yes, Your Honor. His qualifications are set out in Plaintiffs' Exhibit Wright, et al, No. 4, Page 820.

Generally, he has a Ph.D. in Political Science and I think at least eight years of teaching experience. He is teaching political science at St. Mary's University. He testified in the last hearing.

JUDGE JUSTICE: All right, proceed.

DR. CHARLES COTRELL,

a witness called by the Plaintiffs, having been first duly cautioned and sworn to testify the truth, the whole truth and nothing but the truth, testified as follows:

DIRECT EXAMINATION

BY MR. KORBEL:

Q Dr. Cotrell, were you employed by Counsel for the Plaintiffs to testify in their behalf?

A Yes, I was.

JUDGE GOLDBERG: I didn't hear the question.

Q Were you employed by the Counsels for the Plaintiffs to testify in behalf of the Plaintiffs in this cause?

A Yes, I was.

Q When were you so employed?

A In September of this year.

Q Can you describe the conditions of that employment?

A I was asked to conduct a study that would involve election data and other socio-economic data in the counties which are at issue in this case.

Q Are you being paid to appear as an expert witness today?

A Yes, I am.

Q How much is that, Dr. Cotrell?

A I think the total fee involved is roughly $2,000.00.

Q And for that fee of $2,000.00 what did we ask you to do to prepare yourself?

A I was asked to travel to each of the counties involved. I was asked to prepare an electoral analysis of most of the counties involved. I was asked to interview people. I was asked to examine the depositions. I was asked to reach a set of conclusions concerning multi-member districts and the way they operate in the counties.

Q Specifically, Dr. Cotrell, how many days have you spent in preparing yourself to testify?

A I would think there would be about 18 days.

Q Eighteen full days?

A Eighteen to twenty days, yes.

Q Just as a broad general overview before we start our Cook's tour, Dr. Cotrell, do you see any similarities between the districts that you visited?

A Yes, I do. There are similarities in population concentrations. There is a wide diversity, however, in geography, topography and so on, and I have reached certain conclusions about similarities of legal frameworks in those counties.

Q Can you state those conclusions before we start?

A The first conclusion that I reached was that multi-member districts in most cases tend to work to submerge, cancel or otherwise minimize the participation and effectiveness of minority voting strength. Further, I found that in different historical and demographic situations in these counties, keeping in mind we have a very broad spectrum here involved, multi-member districts tend to work to disenfranchise, to limit participation and otherwise submerge minority voting strength in different ways in this context.

Another conclusion I have reached is that as

a legal framework multi-member districts set up an opportunity wherein racial polarization, as expressed in voting, is increased, and another conclusion I reached is that in certain counties multi-member districts per se seem not to submerge the strength and participation rates of minority groups.

Q Well, specifically, are you referring to one county, which is a part of the multi-member districts before this Court?

A Yes.

Q And which county is that?

A That's Hidalgo, and, finally, I reached the conclusion that multi-member districts in certain counties tend to dilute the effectiveness of the legislative representation of particular needs. I would add there -- of minority groups -- I would add there parenthetically it depends on the degree of racial polarization that exists in the county.

Q Dr. Cotrell, have you read all the depositions which now have been offered into evidence?

A I have examined all the depositions, yes.

Q Dr. Cotrell, have you sat through the entire testimony in this trial?

A Yes, I have.

MR. KORBEL: Starting with Lubbock, Your Honor.

Q Just a few preliminary questions with respect to Lubbock.

Before you went to Lubbock, could you describe the studies that you had done to adequately prepare yourself to identify Lubbock County?

A The electoral analysis -- I had under my direction all the state legislative elections from Reconstruction to the present year examined. Concerning other electoral analyses, there was select analysis of elections in the county and in the city and for state legislative posts from 1960 to the present. I also interviewed a number of participants in the political processes of Lubbock. Of course, I have read depositions from some of the participants of the political processes in Lubbock. I gave a cursory examination of the school case, U. S. A. versus Lubbock, which found de jure segregation in the Lubbock Independent School District, and I also interviewed and spoke with and examined studies prepared by Dr. Frank Biard, Political Science Department, Texas Tech University.

Q Did you also have a chance to examine the preliminary draft of what has been identified as Moreno Exhibit 41 -- Lubbock, which is a study, ethnic, economic and educational study of Lubbock?

A Yes, I did.

Q Had you been to Lubbock before you did this

study?

A Yes, I have been to Lubbock.

Q How long did you spend in Lubbock doing these studies and interviewing these people?

A Two days.

Q Can you describe what you did in Lubbock itself when you were there?

A The actual time in Lubbock was spent a number of ways. One was a more comprehensive physical exposure to Lubbock than one would get from, as it were, recreationally visiting Lubbock. An amount of time was spent in interviews, and an amount of time was spent in examining such things -- a cursory examination of such things as housing, area of concentrated minority population, as opposed to so-called white flight areas, housing and so on.

Q Did you actually drive the City of Lubbock and get a first-hand view of the city itself and the demographic features of the city?

A Yes, I have a certain physical sense about the City. I actually drove the city.

Q You said you had access to studies done by Dr. Biard. Is he Professor of Political Science at Texas Tech?

A Yes.

Q Would you describe to the Court what they

contain?

A Dr. Biard has conducted a number of attitudinal studies concerning the Mexican-American and Anglo population in Lubbock County. One of the studies which I believe is in evidence before this Court is a study concerning Mexican-American self-image. This is a study prepared for presentation, I believe, at the Rocky Mountain Political Science Association in April of 1973.

Q Can you briefly summarize that study?

A Well, Dr. Biard found what other attitudinal studies concerning Mexican-American populations in Texas and the Southwest has found. He found in the case of the Lubbock Mexican-American that the Lubbock Mexican-American had a very low sense of self-esteem. The Lubbock Mexican-American had a definite sense of inferiority.

Q Now, you are referring, I think, for the record, to Plaintiffs' Exhibit Moreno 26-Lubbock. Is that correct?

A Yes.

Q Was there also another preliminary study that you had access to by Dr. Biard?

A Yes. This study is not published. I do have with me a compilation of the results. It is a study for our purposes here of the Anglo attitudinal pattern concerning Mexican-American in Lubbock. It demonstrated for one thing

that number upward of 50 percent of the Anglo population hold attitudes that could be termed prejudicial vis-a-vis the Mexican-American population.

For example, such items as lower ambition, that is, Anglos consider Mexican-Americans in Lubbock to have lower ambition. They consider them to be inferior in other ways, such as a number of popular ethnic slurs, stereotypes, one that associated laziness, too emotional and so on.

Q Would it be about half of the Anglo population that hold those views?

A Let me state that more clearly. On some of the items, prejudicial items, the percentages ranged up to 50 percent. In most of those cases, however, there were in excess of 30 percent of the Anglo population held these views vis-a-vis Mexican-Americans.

Q In that preliminary study that you have access to did he have some electoral data also, some studies on elections?

A Yes, he did. What he found has been verified in other parts of Texas concerning participation rates and so on. What Dr. Biard found was that one might expect Mexican-Americans tend to be more alienated concerning the political and social system. Mexican-Americans tend to be more disaffected and so on.

Q Do you also have a part of that study which

included the views of Anglos toward the possibility of a Mexican-American running for the State House of Representatives?

A Yes. Suffice it to say that the Anglo responses were such that you had upwards of 25 and 30 percent who expressed in political or voting categories prejudicial attitudes toward Mexican candidates.

Q And are you familiar with the deposition of Madison Sauder taken in Lubbock County?

A Yes.

Q And in that deposition, does he confirm that survey research that approximately 25 percent of the Anglos tend to be prejudiced or---?

A Yes, sir.

Q ---tend to be very -- well, go ahead.

A This is the Democratic County Chairman, and the Democratic County Chairman's estimate is that 25 percent of the Anglo population holds prejudicial views toward Mexican-Americans in Lubbock County. This was verified by the Biard study.

Q What else can you tell us about Lubbock? For example, what participation have Mexican-Americans had in politics in Lubbock County?

A Participatory rates of Mexican-Americans in Lubbock are extremely low. There has been to my knowledge

no Mexican-American who has ever run for a state legislative office. Mexican-Americans hold practically no offices. There has never been a Mexican-American who has won a county-wide election in Lubbock County.

Q As a matter of fact, no Mexican-American has ever run for a county-wide race, I don't think?

A That's true.

Q I would also suggest that the case of Lubbock is one where you have a minority population that might be clearly 15 or 20 years behind because of any number of factors, historical racism and so on, in the county, 15 or 20 years behind parts of minority populations, particpation rates and awareness in other parts of Texas. This is called in social science terms a traditional culture. It is a passive kind of participation role.

Basically, Dr. Cotrell, what is the percentage breakdown on Mexican-American, black and Anglo in Lubbock County?

A I think the rough breakdown is 16 percent Mexican-American and 7 percent black.

Q Has a black ever been elected to political office in Lubbock County?

A No.

Q I'm sorry, Doctor.

A There is one black School Board member, I

think, elected in 1968 or '70.

Q And did the Biard study indicate that among the Anglos the least interest was shown in School Board races in Lubbock County? Is that correct?

A That's true, and electoral data bears that out.

Q What is the condition educationally of the Mexican-Americans in Lubbock County?

Give the Court a few mintues on that.

A My own opinion was that it was atrocious. You have, I think, in testimony before this Court the fantastic dropout rate. You have, of course, the school segregation case and the finding of de jure segregation in the Lubbock Independent School District, but in one of the depositions, as I recall, there is a startling item to me, and that is that from the Lubbock Independent School District graduates who were Mexican-American only seven have graduated from the local university, Texas Tech, and this is, I believe, from a counselor at Texas Tech and, secondly, I believe that of the graduates who are Mexican-American in the Lubbock Independent School District there are only 20 who have achieved college degrees elsewhere in the nation.

Q Do you know for a fact that the Director of Bilingual Education speaks no Spanish in the Lubbock

Independent School District?

A Yes, I do.

Q Did you identify what has been termed as white flight in Lubbock?

A Yes, like nearly all metropolitan areas in Texas, you have a clearly definable concentrated black and Mexican-American population. It is in Lubbock classically across the tracks, and then you have a very little movement outside of that area, and then you have in what would be the leftward portion of that map, upper left---.

Q For the purpose of the record, you're referring to the Moreno Exhibit 47(b)-Lubbock and 47(a)-Lubbock?

A Yes. You have white census tracts there almost 100 percent white, and then you have the so-called salt and pepper areas just outside the orange area.

Q For the purpose of the record the orange area represents the minority areas in the county. Is that correct?

A Yes.

Q And the white areas that you're talking about would be those toward the south and toward the left of Plaintiffs' Exhibit 47(b). Is that correct?

A Yes.

Q For the purpose of the record, and I might add that the dots indicate races run. Is that correct, on

the map?

A State legislative races run and candidates for those races.

Q Were there any candidates who offered themselves for election since 1960, which is indicated by the dots on the map, who lived within the orange or Mexican-American and black areas?

A No.

Q What percentage of the population is minority within the orange areas, do you know that, Dr. Cotrell?

A What percentage is minority?

Q Yes.

A Between 75 and 80 percent. It may even be higher than that.

Q According to the census?

A According to the census.

Q Would you say that because of white flight it would be substantially more than that?

A Yes. In some of those census tracts it is reaching 100 percent.

Q When you drove around and observed the population, you saw very few whites in those areas, is that correct?

A That's true, but mainly the census data demonstrates that.

Q Can you compare the condition of the minorities in Lubbock County with the minorities in Bexar County?

A I don't think there is any kind of comparison here at all. The Lubbock County minority populations are as I have tried to describe in a traditional posture. That is, they are almost totally quiescent. There is apparently a great deal of hopelessness and despair, a great deal of alienation reflected in the attitude studies we talked about. There is very little hope as far as any kind of real participation rate and participation in politics. You find, for example, very few active minority members in politics in Lubbock County.

Q As a matter of fact, Dr. Cotrell, isn't it a fact that the School Board and the City Council and State Legislative elections are all held under the multi-member district system?

A Well, the at-large system?

Q Yes.

A Yes.

Q Dr. Cotrell, based upon your analysis of the election returns in Lubbock County, have you reached any conclusions?

A Yes, I have, and that is that the multi-member district, as a legal framework in Lubbock County,

continues to discriminate against minorities in voting participation and continues to submerge, dilute and otherwise cancel their strength and effectiveness.

Q Specifically, Dr. Cotrell, do Mexican-Americans tend to vote for Mexican-Americans, rather than Anglos? Is that what your studies developed?

A Well, they confirm a pattern that I found in electoral analysis in most of these counties, and that is Mexican-American voters tend to overwhelmingly, sometimes by eight or nine-to-one in Lubbock County identify with Mexican-American candidates.

Secondly, Anglo voters inversely tend to vote against Mexican-Americans when they are in races.

JUDGE JUSTICE: Are you speaking about state-wide races, because you've said that there have been no local races involving Mexican-Americans.

THE WITNESS: No, Your Honor, we had to look at other races, county-wide races and county commissioners' races and -- particularly, county commissioners' races.

Q Specifically, Dr. Cotrell, did you examine two county commissioners' races?

A Yes.

Q You're basing your opinion on these two

county commissioners' races?

A Yes.

Q In which Mexican-Americans ran?

A Because there was no county-wide candidate.

Q Were the Mexican-Americans elect to those county commissioners' posts?

A No, they were not.

Q Go ahead.

A Well, that in Lubbock County I think I have already said that Mexican-Americans tend to vote for Mexican-American candidates, an finally, I suppose one could say that Mexican-Americans in Lubbock County when there is no Mexican-American in the race tend to vote for th most popular Anglo candidate.

Q How about the Anglo areas? How they vote, Dr. Cotrell?

A The Anglo areas voted overwhelmingly in -- let's take the Jacoba, Pauline Jacob race.

Q She ran for County Commissioner, for purposes of the record, in 1970?

A '70, correct, uh-huh.

Q Referring now to Exhibit 47(b), that refers to the left-hand upper part of the map?

A Yes, it is.

Q Her district is that part of the district

running down 19th Street and Avenue Q, I should say, this area (indicating), so she had, it appears, two census tracts which would be minority. Is that correct?

A That's true, and the percentage of support there bear out that Mexican-Americans overwhelmingly supported her. In one particular area involved in that race in Shallow Water, for example -- I think that's in---.

Q Now, would Shallow Water show on the map?

A No, it would not.

Q Shallow Water would be in the upper left-hand corner if the map were larger. Is that correct?

A Yes.

Q Shallow Water is a rural precinct?

A Yes, it is. They had an attempt there, I understand -- she did make the runoff, and there was an attempt there, the use of a handbill to identify her as a militant La Raza type, an active person in Mexican-American affairs and so on, and the discrepancy between the general election and the runoff is really amazing in that particular area and then, of course, the voting trends hold in the white areas.

JUDGE GOLDBERG: Excuse me. Did I understand you to say that no Mexican-American had offered himself for county commissioner in a precinct which is predominantly Mexican-American?

THE WITNESS: No, Your Honor, I think that there have been two Mexican-American candidates, according to my records, who have offered themselves for office in that precinct.

JUDGE GOLDBERG: Were they defeated?

THE WITNESS: Both defeated, yes.

JUDGE GOLDBERG: Although you vote by precinct in the county commissioners' race?

THE WITNESS: Yes, the percentage there is still in favor of the Anglo candidate or the Anglo voting population, but this is the closest -- what I am suggesting is this is the closest a Mexican-American has come to running, and this is the only kind of evidence that could be demonstrated.

JUDGE GOLDBERG: Maybe I don't follow you. You lost me. Did you not tell us that in the orange area at least 80 percent were minority?

THE WITNESS: Yes.

JUDGE GOLDBERG: Well, does the orange area have one or more of these county commissioner precincts?

THE WITNESS No, the orange area, none of the county commissioner precincts are specifically in that orange area. In fact, there was an allegation made that any time a Mexican-American runs and

runs well, that the precinct lines are changed.

JUDGE GOLDBERG: You mean that the four county commissioners in Lubbock County, three come from truly rural areas, and the one -- the map we're looking at is one county commissioner's precinct?

MR. KORBEL: No, Your Honor. Maybe I can explain the map, Your Honor, for the purpose of the record.

The typical pie-shaped county commissioner setup is here, and Pauline Jacoba lived in this precinct, which included a substantially minority area, a substantial population there. There's another county commissioner's precinct, which includes this much in the rural areas (indicating), and there's another county commissioner's precinct which includes another part of the minority area and rural area, and the fourth county commissioner's precinct, which includes the rural left-hand quadrant of this map and more rural areas. so in no one of the---.

JUDGE GOLDBERG: You mean the minority areas have been split into three parts?

MR. KORBEL: Yes, Your Honor.

JUDGE GOLDBERG: All right, let's put it on

the record like that then. That will make it simple for me. I'm so simple-minded.

MR. KORBEL: I'm sorry, Your Honor.

BY MR. KORBEL:

Q So she ran from the county commissioner's precinct which contains a substantial amount of Mexican-American votes. Is that correct?

A Yes.

Q Were there, in fact, three boxes in that county commissioner's precinct which were substantially Mexican-American?

A Yes, there were.

Q How did she do in those boxes?

A Well, the voting percentages in those boxes, as I recall -- I have the figures here, but they were upwards of seven and eight and nine-to-one in her favor.

Q How did she do in the substantially smaller minority rural sections of that county commissioner precinct?

A She was defeated soundly.

Q Specifically, Shallow Water now.

A The Shallow Water returns I have. Would you like me to refer to them?

Q Just generally tell us, I think.

A Well, as I said, she ran in the first

election there, the first election she ran rather well. She ran moderately well, but in the runoff election not only was a tremendous amount of interest generated in that election -- I'm suggesting that the awareness of a Mexican-American being elected became known. We had the handbill.

Q The handbill was passed out between the general election and the runoff (sic)?

A Yes, and she was defeated disastrously in Shallow Water.

Q I'm sorry. I mean the primary election and the runoff.

Do you have any knowledge of the cost of running a campaign in Lubbock County?

A I think that the cost is relatively small compared to other multi-member districts. I would think it is in the range of five or six thousand but, of course, you had had incumbents there and gaining reelection is no real problem.

Q The record indicates that only one Mexican-American has ever been elected to a county office in Lubbock County. Isn't that correct, Dr. Cotrell?

A Yes.

JUDGE JUSTICE: What was the office and when was it?

Q One Mexican-American was elected to a post

of what, Dr. Cotrell?

A I think that was Constable's Office.

Q Yes.

A And the election was -- I have that, Your Honor. I think it was in mid 60's or late 60's.

JUDGE JUSTICE: This was a precinct election?

THE WITNESS: Yes. Again, Your Honor, we refer to these elections, because the larger county-wide races have no evidence.

JUDGE WOOD: Well, that's important. Is it a rural, small precinct, Constable's Precinct, or is it the one that encompasses the whole City of Lubbock?

THE WITNESS: No, it encompasses part of the city and a rural area, also.

JUDGE WOOD: And what is the population of that Constable Precinct?

THE WITNESS: I don't know, Your Honor. I would have to check.

JUDGE WOOD: About how many, would you say, just an estimate?

THE WITNESS: I have it in the voting returns. Just a moment.

JUDGE WOOD: I don't mean the voting strength.

I mean the population strength.

MR. KORBEL: There's no way to tell that. These things cut across census lines, and there's no way to tell.

JUDGE WOOD: You mean there's no way to tell how many voters there are in a constable's precinct?

MR. KORBEL: He can testify to voters.

JUDGE WOOD: There's no way to testify what the population is in a constable's precinct? Is that what you're telling the Court?

MR. KORBEL: Yes, sir.

JUDGE WOOD: All right. I'll ask him to give me an estimate, if he knows.

Is it 75,000 or 100,000?

THE WITNESS: No, I would estimate it to be -- gee, I would estimate it to be 25 to 30,000.

JUDGE WOOD: All right, and what is the population of each county commissioner's precinct that the Mexican-American ran in one of them? What is the population of that?

THE WITNESS: I would again have to give you an estimate, Your Honor.

JUDGE WOOD: All right.

THE WITNESS: I would say roughly 35 to 40,000. These are estimates, though, Your Honor.

JUDGE WOOD: And I assume that the population in all of the other four county commissioners' precincts are about equal?

THE WITNESS: I would assume so, sir.

JUDGE WOOD: All right.

Bear in mind -- you understand the representative districts are 75,000?

THE WITNESS: Yes, Your Honor. That would be four -- that's what I was using as a basis there.

JUDGE WOOD: How is the fact that -- how is this going to help if the commissioners' precincts are 35,000, and that's 75? That's 140,000. How are you going to cut that so it's going to give them better representation than they have now if you have got it down as small as 35,000 or 30,000, the single-member districts, and the smaller it gets the better their representation would be, and they still can't make it? How is it going to help us to make single-member districts? How is it going to help?

THE WITNESS: Yes, Your Honor. Well, in county commissioners' precincts normally you would find that this would be an area where it is a single-member distrist, and your minority people would run better, but, of course, in any single-

member district, although it may have tremendous advantages over a multi-member district, there is a question of gerrymandering, and I suggested in at least some of our interviews they said that the county commissioners' precincts whenever a Mexican-American did well, the census tracts and so on were changed.

JUDGE WOOD: If you gerrymandered it, which apparently the Supreme Court permits -- if you gerrymandered it in a way to favor the Mexican-American population existing in Lubbock County, would that necessarily insure the election of a Mexican-American?

THE WITNESS: Would it necessarily insure the election of a Mexican-American?

JUDGE WOOD: First, answer that question, and then I am going to ask you, or would it help.

THE WITNESS: No, the question is whether it would enhance the voting strength of Mexican-American voters and black voters in Lubbock County, and then I would have to answer yes, most emphatically.

JUDGE WOOD: All right, why do you say that?

THE WITNESS: Then you could draw a district

not only a county commissioner's precinct, a district, but you could also draw a state legislative district wherein the minority voting strength would be greatly enhanced in the sense that a legislator or county commissioner running with that constituency would have to answer---.

JUDGE WOOD: Well, of the total population of 120,000 people in the county, how many are Mexican-American?

THE WITNESS: Well, 16 percent of the population roughly is Mexican-American. I think that the total population of Lubbock or the county is roughly 149,000---.

JUDGE WOOD: Could you gerrymander this to put all Mexican-Americans in one precinct -- in one legislative single-member district?

THE WITNESS: You're asking me a feasibility question, yes, sir, but a line could be drawn wherein nearly all, as we have demonstrated by our concentration of your Mexican-American and black population, would be in one.

JUDGE WOOD: All right, that would be

38,000, wouldn't it, roughly?

THE WITNESS: Yes.

JUDGE WOOD: All right, very well.

MR. KORBEL: Your Honor, the deposition of Madison Sauder, a witness for the State, indicates that if a line was drawn according to the plan which was offered, that 99 percent of the black population and 99 percent of the Mexican-American population would be in one district.

JUDGE WOOD: And how many voters of the 75,000 would that give the Mexican-American?

MR. KORBEL: I think they would have approximately 40 percent of that district, Your Honor.

JUDGE WOOD: Forty percent?

MR. KORBEL: Yes, Your Honor.

JUDGE WOOD: But they still wouldn't have a majority?

MR. KORBEL: No, Your Honor, but I think what this case is about is giving the Mexican-American and the black and other minorities a chance to participate, rather than a chance to insure an election.

JUDGE WOOD: I think it is a question of showing that they have been discriminated against, isn't it?

MR. KORBEL: Yes, Your Honor.

JUDGE WOOD: In such a way as to deprive them of their right to participate?

MR. KORBEL: Yes, Your Honor.

JUDGE WOOD: All right, very well.

BY MR. KORBEL:

Q Now, you have read all the depositions in this case, and you have sat through the evidence, and you have examined the electoral data. Do you have an opinion as to whether or not a history of official racial discrimination has touched the lives of the Mexican-Americans and blacks to participate in the electoral process?

A Most emphatically.

Q And what is that opinion?

A Racism has affected participation rates and is one of the main obstacles to overcoming the rather passive and quiescent roles that Mexican-Americans and blacks play in Lubbock County. Of the counties I observed Lubbock, indeed, in terms of hope for the future and participation was definitely one of the worst.

JUDGE GOLDBERG: I just want to be sure that we're addressing ourselves to what might be the crucial issues.

MR. KORBEL: Yes, Your Honor.

JUDGE GOLDBERG: I'm going to ask this witness what I have tried to ask others in different ways.

Do you believe that multi-member districts in Lubbock County has denied the minority groups, particularly Mexican-American, in Lubbock County access to the electoral machine, as distinguished from the legislative apparatus or a legislative forum or changes that would eliminate the patterns of discrimination that you have told us about?

THE WITNESS: Yes, Your Honor, I do. The multi-member district works in Lubbock County to set up a situation wherein not only is it a question, as Judge Wood pointed out, of a difficulty in sheer percentages of electing a Mexican-American or black representative, but the multi-member district acts to discourage not only people seeking the candidacy, but that, in turn, acts to discourage people from even participating in that level of politics, voting and so on.

JUDGE GOLDBERG: When the Supreme Court speaks of multi-member districts -- you're not a lawyer, but I'm still going to presume that you understand my question -- when the Supreme Court speaks of the fact or speaks to the conclusion that

multi-member districts are not per se unconstitutional, what you are saying, what your opinion is, that the actual facts of the voting itself show that there is a per se unconstitutionality involved, even though there is no organization that bars them, even though the poll tax does not bar them. It is the feeling of frustration, the idea that they're not going to get anywhere. That is the thing that makes the multi-member district bad, pernicious.

THE WITNESS: Your Honor, may I respond to that?

JUDGE GOLDBERG: Any way you want.

THE WITNESS: I think the Supreme -- when I started this study, I wasn't sure that the Supreme Court finding that multi-member districts per se were not unconstitutional -- I wasn't sure that the Supreme Court -- that that was a sound view, but given the history of official racism, I'm suggesting that in Lubbock County the multi-member district as a legal framework acts to continue to subvert the participation rates and acts to continue to subvert the actual strength of racial minorities in voting.

JUDGE GOLDBERG: Thank you.

JUDGE WOOD: Well, do you feel that the single-member district in a small county, such as Lubbock, comparatively speaking, when we're dealing with Tarrant County of 600 is a panacea for all ills that would eliminate discrimination?

THE WITNESS: No, Your Honor.

JUDGE WOOD: Couldn't there be discrimination in a single-member district of 75,000 just as easily as there could in a single-member district (sic) with four people running with 150,000? Why do you say that it is going to correct those deplorable conditions necessarily, just the magic of the single-member district?

THE WITNESS: I don't believe I have said by any means that a single-member district remedy is a panacea, nor have I suggested that the multi-member district is the only cause. In fact, it is my understanding that it is an aggregate of factors which work in different ways, which the multi-member district tends to reinforce, and the multi-member district tends to in some cases inflame. That is one response.

The second response is -- and I appreciate the question of size -- people who don't pay attention to scale are missing, I think, a lot in

American politics, but the fact is that in Lubbock County, as in other rural counties that we will see or deal with today, I have found that because of this traditional political posture and low participation and so on and the sort of hopelessness of it all, that the multi-member district in a sense can come down as hard, if not harder, in its effects there than it does in a larger district.

JUDGE WOOD: Well, in some instances where you are governed by a 75,000 population as a criteria, in order to help remedy the situation, you would have to cut these voting districts down to five or ten thousand people, wouldn't you, if it is going to effectively give any aid to the problem that we're trying to eliminate?

THE WITNESS: Your Honor, there's a distinction here, I believe, that has to be made. You have made the distinction of size.

JUDGE WOOD: Well, that's only one distinction.

THE WITNESS: Yes, Your Honor.

JUDGE WOOD: There are other factors, but address ourselves to that factor.

THE WITNESS: You have carried the small

unit argument to its logical conclusion, one-to-one, and that's impossible on a representative system. That's conceded, but what remedy does a single-member district give that a multi-member district does not, all questions of size aside?

The single-member district under the so-called ideal 75,000 in Texas affords at least the opportunity for a Legislature to establish general communities of representation of general communities within a community, and what we have seen here is that multi-member district in many counties tends to represent one "community" but really, in effect, it is one specific ethnic or racial segment of that community. That's the difference, and I think it is a crucial difference, Your Honor.

JUDGE WOOD: All right, that is a crucial difference. That, I will concede. Then you are actually saying here that you -- and I think in fairness to everybody -- you disagree with the Supreme Court. You feel like multi-member districts are not good?

THE WITNESS: No, Your Honor, I meant---.

JUDGE WOOD: When would you find that a multi-member district is good? Under what

circumstances or conditions in the State of Texas under the proscription of the Supreme Court would you find in your opinion a multi-member district advantageous?

THE WITNESS: Your Honor, I have tried to connect multi-member districts to certain population and historical situations. The historic situation in Texas is racism, and what remains for this Court to find is whether there is a question of official racism in the counties involved.

I would find a multi-member district unobjectionable in a situation where one can find little or no racism, where there can be found an active viable two-party, maybe three, maybe multi-party system, and a situation where one could find a degree of equity and a degree of equality -- a degree, mind you -- in socio-economic terms, but I am suggesting, Your Honor, that in only few instances do the multi-member districts in Texas combine -- well, I would say in no instances would they combine the situations I have just described because of the party element. I'm speaking of an area outside the state -- maybe I'm speaking of---.

JUDGE WOOD: It is not good for Texas.

THE WITNESS: No. Now, I didn't say that.

JUDGE WOOD: Multi-member districts are not good for Texas. Is that what you're saying? Maybe good for other places?

THE WITNESS: I tried to specify why this situation in the State of Texas, why they are objectionable, and they are objectionable because as a legal framework they tend to continue to reinforce and to increase racial polarization, racial prejudice and all the things that follow.

JUDGE WOOD: Isn't that what Whitcomb versus Chavis and all the other cases decided by the Supreme Court, this case and all the others decided by the Supreme Court and the Fifth Circuit are all about, and they have held in those cases that multi-member districts are not per se constitutionally impermissible. Isn't that true, even though they do involve---?

THE WITNESS: Your Honor, I said at the outset to your question that I found some wisdom in -- at least some pause in the Supreme Court's judgment. It was upheld in my view, in my opinion after completing this study that you can't say that multi-member districts without any regard to population or any regard to the history of a situation, racism, official racism and so on, you can't say

that multi-member districts are inherently discriminatory.

JUDGE WOOD: Don't you really feel that the Supreme Court has suggested and the evidence in all these cases make it more suspect if they are larger, like Dallas County which had a population greater than five sovereign states? They become more suspect when they're bigger, don't they?

THE WITNESS: Your Honor, scale -- I really can't agree with that.

JUDGE: WOOD: All right.

BY MR. KORBEL:

Q Specifically, before we continue, have you made an opinion as to whether or not the multi-member districts discriminate per se or discriminate against Mexican-Americans and blacks in Galveston County and Hidalgo County?

A Well, my conclusion based on what I directed here---.

JUDGE WOOD: I thought they were out of the case.

MR. KORBEL: I'm only pointing out to the Court that he is not saying that all the---.

MR. RICHARDS: Galveston County is not out of the case, Your Honor.

JUDGE WOOD: I understand Galveston, but I'm talking about Hidalgo.

MR. KORBEL: I'm explaining to the Court that his opinion would be in at least two counties multi-member districts are not unconstitutional.

JUDGE WOOD: Well, you have given up on your proof on that, haven't you?

MR. KORBEL: Yes, Your Honor.

THE WITNESS: May I address just that question?

JUDGE WOOD: All right, go ahead.

THE WITNESS: What I am saying, your Honor, is that in Galveston and Hidalgo Counties one cannot -- for different reasons one cannot come up with the same kind of situation that you can in other counties and, hence, the multi-member district as a legal framework doesn't work the same way vis-a-vis minority groups and their voting participation.

BY MR. KORBEL:

Q Do you have an opinion, Dr. Cotrell, with respect to Lubbock County whether or not the multi-member district operates to cancel out the voting strength of racial and political elements of the voting population?

A I think I have answered that, yes.

JUDGE GOLDBERG: Many times.

MR. KORBEL: Moving on to El Paso then, Your Honor.

Q Before you went to El Paso, would you describe for the Court the method in which you prepared yourself to examine El Paso County?

A Well, it was very similar to the preparation for Lubbock. It involved electoral analysis. It involved interviews. I might pause here to say one of the interview situations was in what one could describe as a rare event. It was an event wherein the Democratic County Chairman, the Republican County Chairman and, I believe, representatives of La Raza, a third party in Texas, were all present in the same room. I thought that was rare for me to experience that, and I did read the depositions and -- well, I think the general preparation was similar to Lubbock.

Q How many days did you spend in El Paso County?

A Two days.

Q Did you consult with any members of the academic community there in El Paso County?

A Yes, I did. I consulted with the Professor of Government, Mel Strauss, Melvin Strauss, at the University of Texas at El Paso and had given to me a very good voting

study by Dr. Rudolfo de la Garza of the University of Texas at El Paso.

Q What was that voting study based on?

A It was based on an examination of select races in the 1972 primary in El Paso.

Q And I suppose when you were in El Paso County you were driven around and viewed the---?

A The physical experiences were the same. I drove, well, almost the entire portion of populated El Paso.

Q As a matter of fact, we had a twenty-some dollar cab fare. Is that right?

JUDGE GOLDBERG: You must have got a bargain rate.

Q Based upon your studies and research, Dr. Cotrell, how many Republicans have been elected to the State Legislature from El Paso County?

A In El Paso County none.

Q As a matter of fact, have any Republicans been elected to any office in El Paso County, any county-wide office?

A No.

Q How many Mexican-Americans have been elected to the State House of Representatives since Reconstruction?

A There have been four.

Q How many races have been had for the State House of Representatives since Reconstruction?

A How many races?

Q Yes.

A I believe in excess of 120 races.

Q And in that only four Mexican-Americans have ever been elected. Is that correct?

A That's true.

Q How many Mexican-Americans have offered themselves for positions of State Representative from El Paso County since Reconstruction?

A I believe there have been nine.

Q Does that say anything about candidate recruitment?

JUDGE JUSTICE: About what?

MR. KORBEL: Candidate recruitment.

A Well, I would suggest it says something about the rate of participation, not so much recruitment per se, but the way in which a candidate offers himself and the availability of Mexican-American candidates for a certain electoral office.

Q You're saying that there have been only nine Mexican-Americans who have offered themselves for election in El Paso County. Can you contrast that with Bexar County?

A Yes, Bexar County had since Reconstruction 22 Mexican-Americans who had offered themselves for political office, state legislative level, Democratic primary.

MR. KORBEL: I have another map, Your Honor. In the interest of brevity I won't put it up. I will describe it to the Court. It is another map with orange areas describing the Mexican-American areas.

JUDGE JUSTICE: Why don't you just display it?

MR. KORBEL: O. K.

(REPORTER'S NOTE: Map is placed on the easel.)

Q I'm referring to Plaintiff's Exhibit 44(a) and 44(b). Can you just describe to the Court what that represents?

A That's a map of the major population of El Paso County. The orange area which borders for descriptive purposes the Rio Grande River and then, of course, across from that would be the Mexican City of Juarez, contains concentrations of Mexican-American and -- Mexican-American essentially -- population in excess of 80 percent.

Q What would the total population of that

area be?

A The total population is in the range of 155,000, I think.

Q I'm referring now to Plaintiff's Exhibit Moreno 40-El Paso, and is that a census study of generally that area in orange?

A Yes, it is.

Q Was that done under your direction and control?

A Yes, using census data essentially.

Q Now, would it be fair to say then that this orange area is a population of about 155,000, and it is about 86 percent minority, primarily Mexican-American?

A As a more precise percentage, yes. I said 80 percent plus.

Q Can you contrast that with Bexar County?

A Well, we don't have a map of Bexar County, but visually that would be the Mexican-American and black population in Bexar County -- the Mexican-American population in Bexar County would be in the west portion of the city of the 27 census tracts, containing 211,000 people, and I think that would constitute 30 percent of the total population of the county, as contrasted here with roughly 41 or so percent of the total population of El Paso.

Q In economic and social terms can you compare

the two areas?

A They would compare, as it were, favorably. They would compare almost identically.

Q To your knowledge -- we're referring, of course, to the Mexican-American area of Bexar County that was before this Court in 1972 -- the 27 contiguous census tracts.

A Yes.

Q To your knowledge have any state legislative candidates resided in that orange area since 1960?

JUDGE JUSTICE: Now, are we talking about El Paso.

MR. KORBEL: Yes, sir.

A None have resided in the orange area.

Q Can you contrast that with Bexar County, with the Bexar County volume?

A With the 27 census tracts just described, yes.

From the time of -- well, from the time of Reconstruction on or from 1960 on, I should say, six people have lived in what would be the 27 census tracts.

Q Six candidates have lived---?

A Six candidates but only one lived there who actually held office.

Q Did another one live very close to---?

A Yes, Mr. Rudy Escobel lived in the outer perimeter of Bexar County.

Q So that in the Bexar County general districts there had been six candidates since 1960. One was elected and one lived very close---.

A Yes.

Q Dr. Cotrell, based on your examination of election returns in El Paso, have you reached any conclusions as to the tendencies of the Mexican-Americans and Anglos?

A The conclusions I would reach concerning select voter comparison, select electoral race comparisons in El Paso County would be stated like this.

Mexican-Americans tend to vote for Mexican-American candidates. Anglo-Americans tend to vote for Anglo candidates. When there are two Mexican-Americans in the race, Mexican-Americans in El Paso County tend to split their vote. When there are no Mexican-Americans in the race, Mexican-Americans tend to vote for the most popular Anglo or the most visible Anglo candidate.

Q Can you contrast those findings with the evidence which is before the Court in 1972 when the Bexar County case was tried?

A The voting findings are identical.

Q In Bexar County and El Paso County?

A Yes.

Q Do you have any knowledge as to the cost of running a campaign in El Paso County?

A Estimates have it from 15 to 20 thousand dollars.

Q How does that compare with Bexar County?

A I believe, as a matter of record, the average is $8,600.00 in Bexar County.

Q The record indicates that reported expenses for an elected candidate in Bexar County was $8,600.00. Is that correct?

A Yes.

Q Are you aware of estimates of the number of Mexican-Americans who are registered voters in El Paso County?

A The---.

Q Estimates of registered voters in El Paso County -- let me rephrase the question.

What percentage of the registered voters in El Paso County are Mexican-Americans?

A The estimate given to us, I think, by the immediate past chairman of the Democratic Party is 38 percent.

Q And what about in turnouts? How do Mexican-Americans turn out for elections?

A The estimated differential in turnouts in El

Paso was roughly 60 and 30, 60 percent Anglo versus 30 Mexican-American. I would have to say, though, that the differential is roughly 25 percent. That's what the estimate given to us suggested.

Q How does that compare with Bexar County, the Mexican-American turnout in Bexar County in registration?

A From voting studies done in Bexar County under my direction, roughly the Mexican-American turnout there would be, oh, 30 percent, maybe higher. The registration percentage in Bexar County would be 40 percent, thereabouts.

Q So in El Paso County we have 38 percent of the registered voters who are Mexican-American, and in Bexar County we have 40 percent?

A Yes.

Q Now, we have a great deal of testimony in the record about the number of Mexican-Americans who have served on the City Council in El Paso. Do you remember what that figure was? On the current City Council in El Paso.

A The current City Council?

Q Yes.

A If memory serves me correctly, there are---.

JUDGE GOLDBERG: Mr. Korbel, haven't we got this in the record?

MR. KORBEL: Well, I want to compare this all with Bexar County, Your Honor.

A The City Council I would have to check. I think there are two or three Mexican-Americans. I'm not certain, currently.

MR. KORBEL: There's one more comparison I would like to ask, Your Honor, and then I'll pass.

Q There has been some testimony about judgeships in El Paso County. Can you compare the number of Mexican-Americans who hold district judgeships in El Paso County with the number of Mexican-Americans who hold judgeships in Bexar County?

A Well, the testimony -- I believe testimony given yesterday has indicated that one Mexican-American holds a county judgeship in El Paso. This would contrast in Bexar County with one county judgeship, Judge John Benavides, and also one Mexican-American serving on the Texas Court of Civil Appeals, Carlos Cadeno.

JUDGE WOOD: Well, that's not just Bexar County, though. That's 68 counties in Texas.

THE WITNESS: Yes.

JUDGE WOOD: They just happen to sit in El Paso.

THE WITNESS: Yes.

The comparison then would be one district judge in each county.

MR. KORBEL: For the purposes of the record then, Your Honor, Bexar County is the most substantial population area in the 68-county district. That's the reason we're offering that evidence.

BY MR. KORBEL:

Q In your opinion, Dr. Cotrell, has the history of official racial discrimination touched the life of Mexican-Americans and blacks to participate in the Democratic processes in El Paso County?

A Yes, it has.

Q Dr. Cotrell, in your opinion does the multi-member district in conjunction with the majority place system operate to minimize or cancel out the voting strength of Mexican-American and black minorities in El Paso County?

A Yes, it does, but I would like to comment on that, if I may.

Q Please.

A We heard much testimony yesterday by some live witnesses from El Paso and, of course, one is struck by the fact that El Paso has 56 percent plus Mexican-American population, I think approximately four or five percent black population, so one would reach the conclusion that in

this situation a multi-member district would be to the benefit of the other situations submerged and otherwise canceled voting strengths of racial minorities, but I think one has to look very closely here at two things.

One is the turnout percentages, differentials between Anglos and Mexican-Americans, and, secondly, one has to look at the question of whether or not there actually exists a racial atmosphere, a racial awareness, a racial polarization in El Paso County. In this situation then one of the explanations that could be given for so few Mexican-Americans being elected to the Legislature then from that county would be that the numerically smaller Anglo population still controls through the legal device of the multi-member district. They are still able to exercise controlling influence through high percentages of turnout.

JUDGE GOLDBERG: Are you through with---?

MR. KORBEL: Yes, Your Honor.

EXAMINATION

BY JUDGE GOLDBERG:

Q The predicate of your expert conclusions, as I take it, or the major predicate, is racism with all of the things that flow from racism. Are you suggesting that

socio-economic conditions which make for groupings within a society, which have nothing perhaps to do with racism, would also lead you to the same type of conclusion with respect to multi as distinguished from single-member districts?

A No, I'm not, Your Honor. I'm not suggesting that what is traditionally thought of as class is the predominant factor in El Paso elections. I am suggesting that my conclusion is that race is the determining factor, and I have tried to show how.

Q You're sticking with race. If you had 100 percent Anglos, 100 percent fourth-generation Americans, a completely homogeneous population and the only heterogeneity you had in any county would be socio-economic differences -- rich people go with rich people, we'll say---.

A Yes.

Q Poor people go with poor people, go to the same ball, that would make no difference to you. Is that correct?

A I'm not sure I understand your question. Yes, personally it makes a difference. The question is whether elections in this country are usually discussed in class terms, and, most importantly, in Texas, I suppose, or whether they turn on race terms, and the evidence that I have seen suggests that in these multi-member counties the

racial factors, as far as a visible factor, is much greater. Now, if we're speaking of my own personal opinion, of course, you have to find that overlapping greatly the class factor is the racial factor, but it seems to me that that is not the predominant issue before this Court, it seems to me, that is, the class question. It is a difficult one, and it is one that probably a multi-member district could affect, but I'm not prepared -- I have no conclusions -- I have no prepared conclusions concerning class.

Did I make myself understood?

Q Yes. The Court is faced with the problem that not every single multi-member election in the United States of America, city, county and precinct would receive the judicial condemnation. You understand that, do you not?

A Yes, I do.

Q There must be an underpenning before you get to show some invidiousness which violates the Constitution. Your testimony relates, as I understand it, to racism as that invidious factor. Now, do you want to add any other factor?

A Just racism as evidenced, as I understand the evidence before this Court, in racial polarization demonstrated in voting, in other incidences and a past history of official racism in the State of Texas, which has the effect of -- if we know anything about attitudes at all -- it

has the residue effect -- in other words, people's minds are warped long beyond the time possibly that the situation would demand their being warped.

JUDGE WOOD: Excuse me. How are single-member districts necessarily going to improve that condition in a county -- I'm addressing myself to Lubbock, which is less than 250,000 people, Lubbock County.

THE WITNESS: Well, you want to go back to Lubbock?

JUDGE WOOD: We're talking about small counties.

THE WITNESS: Yes, I understand.

We have not taken impact studies yet of what happens when we have a change from multi-member to single-member districts. There should be no dramatic electoral differences, but we have no impact studies. They are being conducted now. There needs to be a time built up there, but the suggestion is that the multi-member district in a small area can work as a legal framework in which one increases racial polarization and maintains it and, two, acts to further discourage along racial lines participation and voting effectiveness of racial minority groups. Now, that

would hold true regardless of the question of scale. I suggested that in the smaller counties, which there is some notion that is only a question of size and scale here -- I suggested that in the smaller counties, the more agrarian in heritage, more rural-based economies it can act in a more devastating way. I can freeze the situation into perpetuity as I think some of the electoral results of Lubbock and other counties that we would consider would demonstrate.

JUDGE WOOD: But poor people, irrespective of their race, can run cheaper in Lubbock. You admitted that. The prices of seeking election at large is quite reasonable. Isn't that true?

THE WITNESS: Well, I didn't suggest that cost is the only factor. I suggested there are a whole set of factors involved here that would make it difficult -- I would say impossible in terms of accurate political thinking for a member of a minority group to expect to be elected in Lubbock, Texas, county-wide.

JUDGE JUSTICE: I would just ask, didn't Nixon versus Herndon, one of the early cases involving racial discrimination, originate in El Paso County?

THE WITNESS: I have not connected that. That's true. Did you have a question about El Paso?

JUDGE WOOD: No, not about El Paso.

MR. KORBEL: The final county that I am involved in, Your Honor, is Nueces County.

FURTHER DIRECT EXAMINATION

BY MR. KORBEL:

Q Can you describe to the Court what you did in Nueces County to prepare yourself to testify here today?

A The preparation was very similar to the other counties involved. It included electoral analysis. It included examination of legislative races and candidates filed for those races back in the 19th century. It included interviews and included depositions, and it included a cursory examination of the Seals' decision in the Cisneros case.

Q Are you otherwise generally familiar with Nueces County?

A Well, because of the proximity to my home county, yes, and the fact that I did teach a year at Texas

A & I University in Kingsville some years back.

MR. KORBEL: May I approach this, Your Honor?

JUDGE GOLDBERG: How many more witnesses do you have, Mr. Korbel?

MR. KORBEL: This is my last one, Your Honor.

MR. RICHARDS: Judge, I have some.

JUDGE GOLDBERG: I know, Mr. Richards. We're not going to forget you, nor you, Mr. York.

MR. YORK: Your Honor, may we invite one of our witnesses inside the rail so that he may view this?

JUDGE GOLDBERG: Any place you want. Up here if it will help.

(PAUSE)

BY MR. KORBEL:

Q I'm referring now to Plaintiff's Exhibit Moreno 43(a) and (b), that being described to the Court as generally the Mexican-American, specifically heavily concentrated Mexican-American area in Lubbock County -- or in Nueces County, I should say. It has also been referred to in the Seals' decision as the corridor area. Is that correct?

A That's true.

Q Can you tell the Court in general terms what would the racial breakdown of the corridor area be?

A The racial breakdown is approximately 80 percent plus Mexican-American, and the percentage of black population there is -- I'm not sure. I think it is five or six percent.

Q That's correct. I'm going to show you now Plaintiff's Exhibit Moreno 42-Nueces. Is this a study which you had done on the high concentration of the Mexican-American tracts in Nueces County?

A Yes, it is.

MR. KORBEL: And that is in evidence.

Q Can you compare, once again, this area with the Mexican-American area in San Antonio before the Court in the Graves case, the Graves decision?

A I can give rough statistics that would need verification, but the corridor area constitutes a roughly 40 to 45 percent, 40 to 42 percent of the population of the county.

Q When you say 45 percent of the population, that would include all the tracts which are predominantly Mexican-American?

A Yes, probably be a little lower than in the corridor area itself, which includes census tracts 1 through 18.

Q But generally in economic and social terms it would be about the same as the San Antonio -- is that correct---?

A Yes.

Q ---in Graves versus Barnes?

A Yes, it would.

Q O. K. In Nueces County has there ever been a Republican elected to the Legislature?

A Yes, there has. There was a Republican elected in a special election, and I believe that he defeated a Mexican-American candidate, a Mr. Gonzales, in 1966, again the general election.

Q With this one exception, is the Republican Party a major competitor on local and county-wide races to the Democratic Party?

A I don't think you could say that, no.

Q How many Mexican-Americans since Reconstruction have been elected to the State Legislature to represent Corpus Christi or Nueces County, I should say?

A I think there have been two.

Q How many Mexican-Americans have offered themselves for the position of State Representative since Reconstruction from Nueces County?

A I believe there have been five.

Q I think you are mistaken.

A I think -- I'm not sure.

Q Would eight be the right figure?

A Eight or nine. I'm not sure.

Q Can you compare that with Bexar County?

A Well, as I have already testified, 22 Mexican-Americans presented themselves for candidacy in the Democratic primary.

Q Have you reached any conclusions based on the electoral data which you have analyzed for Nueces County?

A Yes, we analyzed a number of state legislative races there, and the conclusions are very similar to those found in Bexar County and similar to those found in El Paso, and that is that Mexican-American candidates draw Mexican-American voters. Anglo voters tend to vote against Mexican-American candidates, and in a race between two Mexican-Americans, Mexican-American voters tend to split their vote, and I'm not sure one could conclude that Mexican-American voters tend to support the most popular Anglo candidate, although there are some races which demonstrate that.

Q As a matter of fact, have you analyzed all the state representative races since 1960 in which Mexican-Americans have had a part?

A Yes, except one where I did not get data.

Q Can you compare the number of persons who

served on the City Council of Corpus Christi with the number who have served on the City Council in San Antonio?

A There have been---. Well, I think currently there are three members of the City Council in Nueces County who are Mexican-American, and I believe there was one black member out of a seven-person council. There is in San Antonio currently three Mexican-Americans serving on the City Council and one black person.

Q There has been evidence in the record, I think, based on all the depositions concerning Nueces County and based on the live testimony which we had yesterday from Carlos Truan, that there is an increased polarization of racial and ethnic groups in Corpus Christi and Nueces County.

Did you find any facts in the election returns which tend to lend credence to that position?

A Yes, I have already suggested that. The relative voting distribution in Nueces County based on that analysis, particularly in the boxes analyzed or the area analyzed, would be the metropolitan or the area south of Webber Road. Some of the precincts that come to mind are Precinct 92, 65, 90 and so on, and you find racially polarized voting in all of the precincts analyzed there and, of course, you find Mexican-Americans in the mid-corridor area in Precincts 39, 40, 41, 42, so on, supporting Mexican-

American candidates.

Q Did you find increased racial polarization though from the elections held in the mid sixties until elections held in 1972, for example?

A In election analysis, yes, we do focus on one race, one candidate rather, particularly, and that would be current Representative Carlos Truan. We find that in 1972 Mr. Truan, although winning and losing some of those boxes, I indicated, I believe, losing most -- I would have to check -- you still have evidence of racial polarization in terms of percentage of support, particularly when compared with percentages of support which Mr. Truan received in 1968 when he ran against Mr. Smith.

Q The boxes you are referring to are south of Webber Road?

A Yes, the select area. It also includes, I think, a somewhat rural Box 17.

Q Dr. Cotrell, based on your knowledge of Corpus Christi and all the data which is in the record, including the depositions, do you have an opinion as to whether or not a history of official racial discrimination in Nueces County has affected the right of Mexican-Americans and blacks to participate in the democratic process?

A Yes, I think that you have some official racism, but mainly you have a number of incidences in the

depositions that suggest latent and residual racial feeling which has been brought out openly since the Cisneros case or since 1970, since the case was first decided. Also, I think you find some of this in the City Council election, both in campaigning and in the issues drawn. I believe the election was in 1971, and it was based upon two groups who pretty much divided along racial and busing lines.

Q In your opinion, Dr. Cotrell, does multi-member district in Nueces County conjoined with the place system operate to minimize or cancel out the voting strength of racial or political elements of the voting population?

A Yes, it does.

Q Those would be the Mexican-American and black elements of the population. Is that correct?

A Yes.

MR. KORBEL: Your Honor, I won't ask any more questions. I would like to apprise the Court of the fact that considerable evidence of specific acts of discrimination, both official and unofficial, is contained in the depositions, and we aren't going to parade that before the Court.

JUDGE WOOD: May I ask one question here, Judge Goldberg?

JUDGE GOLDBERG: Yes.

EXAMINATION

BY JUDGE WOOD:

Q Now, Corpus Christi elects at large, do they not, their City Council? In other words, they do not elect by single-member or ward districts, do they?

A They elect at large, that's right.

Q The mayor and the councilmen are how many total?

A I think it is a seven-person City Council, yes.

Q Now then, what is the mayor? Is he an Anglo?

A The mayor is an Anglo.

Q Who is he?

A Name -- I don't know whether I have it, sir.

Q Is there a black on the City Council?

A Yes.

Q Who is that?

A I don't have his name.

Q All right. And how many Mexican-Americans are on the City Council elected at large?

A There are three.

Q There are three, and there are only two Anglos on the City Council?

A Well, if it's a seven-person City Council, and there are four minority members, then there would be three Anglos.

Q With the mayor?

A Yes.

Q That's what I mean.

A Yes.

Q There's a mayor and two Anglos on the City Council, three Mexican-Americans elected at large and one black elected at large?

A Yes, this is an at-large election.

Q Now then, with reference to the House of Representatives, how many members are there in this multi-member district?

A There are three.

Q DeWitt Hall?

A Yes.

Q Who is the other one?

A Representative Joe Salem and Representative---.

Q Carlos Truan?

A Yes.

Q And Carlos Truan is serving his third term. He's been reelected twice -- he's been elected at large in

this multi-member district on three occasions?

MR. KORBEL: Your Honor---.

Q ---and Tony Bonilla before him?

A Yes, Tony Bonilla, and I suggested that a Mr. Gonzales lost in 1966 to the Republican in the general election.

Q And, of course, the Republican lost to Mrs. Sissy Farenthold. Isn't that right?

A Yes, that's true.

Q All right, but at the present time there's two Anglos and Representative Carlos Truan, who is a Mexican-American?

A Yes.

Q How long has there been a Mexican-American on the City Council? How many years does this go back? Take Mr. Tony Bonilla. How long was he on before Representative Truan went on?

A Let me check, Your Honor. If I can find that in Nueces County.

Q But Mr. Bonilla was elected -- he was elected---.

JUDGE GOLDBERG: Let Mr. Korbel say if he knows.

MR. KORBEL: Mr. Bonilla was elected, I believe, in 1964.

JUDGE WOOD: All right.

MR. KORBEL: He was not reelected in '66. Mr. Truan was elected in '68 and served---.

JUDGE WOOD: So he has been elected three times at large:

MR. KORBEL: Yes.

JUDGE WOOD: That's all I have. O. K.

JUDGE GOLDBERG: Do you have anything further?

JUDGE WOOD: That's all I have.

THE WITNESS: I just wanted to point one thing out.

JUDGE WOOD: All right.

THE WITNESS: Your Honor, we used City Council elections and, quite obviously, my retention capacity in City Council elections is not everything it should be, but we used it because, although they don't correspond to the multi-member districts in size, you do have essentially the same areas, but I would like to point out one significant difference, at least it seems to me in this case, and that is the difference that in City Council elections you don't have the visible, dramatic symbol of Democrat or Republican for identification purposes. This makes a tremendous

amount of difference.

JUDGE WOOD: Well, single-member districts won't eliminate that.

THE WITNESS: No, no, I'm suggesting that the state legislative posts -- we're really talking about primary elections, so you do have some obscuring factors in city elections, and sometimes they are explicable and sometimes they're not.

MR. KORBEL: I have one further question just to bring something up on City Council elections.

FURTHER DIRECT EXAMINATION

BY MR. KORBEL:

Q Are those City Council elections held by slate? Is there a slating process?

A In Corpus Christi in 1971 they were held by slate, I think the Now Party and the People's Party.

Q And was one party successful in electing everyone except one?

A That's true. That would have been the Now Party slate.

MR. KORBEL: Thank you. That's all.

JUDGE GOLDBERG: We'll take a 15-minute recess.

(REPORTER'S NOTE: The Court then, at 10:35 o'clock, A.M., December 5, 1973, recessed until 11:00 o'clock, A.M., the same day, at which time it reconvened.)

JUDGE GOLDBERG: Mr. Richards?

MR. RICHARDS: Yes, Your Honor.

JUDGE GOLDBERG: How long do you think you're going to detain us?

MR. RICHARDS: I promise to complete everything in six hours.

(LAUGHTER)

MR. RICHARDS: But I'll try to keep it within 30 minutes.

One Matter preliminarily. We have in evidence -- I thought I might identify them just for the record -- various exhibits which do essentially what the big maps do.

JUDGE GOLDBERG: I hope so.

MR. RICHARDS: That show minority concentrations through various areas. Our Exhibit No. 3

is to Jefferson County. Moreno Exhibit 38 is to Waco, McLennan County. Moreno Exhibit 39 is Travis County, and they contain figures showing minority concentrations.

JUDGE GOLDBERG: Mr. Richards, before you proceed with your expert, can I ask him one question?

MR. RICHARDS: Sure. Excuse me, certainly.

EXAMINATION

BY JUDGE GOLDBERG:

Q Maybe I didn't understand you right. Did you testify that multi-member districts in your opinion could be justified in Hidalgo and Galveston County? If you have a difference of opinion, please tell us the whys and wherefores of it.

A Well, Your Honor, I suggested earlier that the multi-member district as a legal framework operates differently in different contexts. In most of the contexts or the counties we're dealing in terms of background of the counties and the racism of the counties. It works to disenfranchise or subvert minority groups. Two of the factors involved were history and population. I don't mean those

together. In the case of Hidalgo the percentage of the population which is Mexican-American is in excess of 80 percent, I would presume, or maybe higher, and you reach a point in that where, first, you're not speaking of a white voting majority controlling who is in. You are speaking, in fact, of a percentage that is so high that the number of Mexican-American candidates -- this suspect class -- you would have to -- you've got a sliding thing. You're coming to another range -- now, this is a social science question, Your Honor, and I don't mean to clutter up the Court record with that. But when you come to a range, given low turnouts, history of racism, low participation rates, and so on, of say slightly 50 percent or below in minority concentration, then we see the conspiratorial effect of the multi-member district at work.

MR. RICHARDS: As to Galveston.

Q You're talking about Hidalgo now?

A Hidalgo. Now, in Galveston I don't mean to say there has not been segregation in Galveston, but Galveston, as the Court knows, is -- all of these things are different, but Galveston is a city that is rich in multi-cultural background for long periods of time. It is a city wherein---.

Q You're talking about the county or the city?

A Galveston Islard itself, and that's the

dominant portion. You might have different patterns on the mainland itself.

Q That gets into this case, doesn't it?

A Yes.

Q All right.

A Well, I would have to -- in my opinion I would have to suggest that historical reasons explain Galveston. There has been a peculiar relationship between ethnic minority groups, and maybe it has something to do with that island. There are a number of things, heavy industry, the port and so on.

Q What is the position of Counsel with respect to Galveston?

MR. RICHARDS: Our position with respect to Galveston is stated essentially by the testimony of Representative Harris. We say that there has been a fragmentation in the sense that the districting removed from the basic district a substantial black tract, Tract 1219, utterly unreasonable, tagged it into Harris County, creating a dilution by that fashion---.

JUDGE GOLDBERG: That which was pure because impure?

MR. RICHARDS: Exactly, and our second step in the process is that we're going to ask the

Court to restore that tract to the basic district.

JUDGE GOLDBERG: But the argument in Galveston will be quite distinctly different than the other counties. Is that your point?

MR. RICHARDS: Exactly.

JUDGE GOLDBERG: And this expert witness is not addressing himself to that?

MR. RICHARDS: Well, yes and no. He is addressing himself to the extent that he is responding to your questions that our investigation did suggest that a multi-member district does not always result in the dilution and deprivation of the minority vote, and that in Galveston County we found this a factor. That's all.

JUDGE GOLDBERG: You can add this to your 30 minutes. Proceed.

JUDGE WOOD: Mr. Richards, he has raised another point with reference to Hidalgo that also I'm going to ask him about.

MR. RICHARDS: Sure.

BY JUDGE WOOD:

Q How do you reconcile your findings that because of the Mexican-American majority in Hidalgo - do you reconcile that with your opinion in El Paso County where the population is 58 percent Mexican-American, 3 percent black, and all the rest are Anglo and all others? Now, why is there a difference?

A Your Honor, I began by saying that this is a social science answer, but I think it will hold up even if it were computerized.

Q Well, you can see the similarity of your argument between Hidalgo and El Paso.

A Yes, Your Honor, except one very large district. There is a fantastic differential that offsets the turnout participation rates in Hidalgo which does not offset the participation rates in significant concentration in majority or near majority concentrations in other counties. It is so great in Hidalgo that there has run, of course, the analysis, but you would expect ---.

Q What you're saying is the minority of those not Mexican-American are not dominating the Mexican-American

turnout or voter participation in Hidalgo, but this 38 percent Anglo and less is dominating it totally in El Paso. Is that what you're saying?

A I tried to explain the range of differences here and how the multi-member districts could affect it, and that's why my conclusion---.

JUDGE GOLDBERG: What you're saying is if it's 95 percent Mexican-American, you wouldn't have any problems?

JUDGE WOOD: Or 80 percent.

JUDGE GOLDBERG: Well, I didn't mean to make it reductio ad absurdum. Is that what you're saying?

THE WITNESS: I don't want to suggest that the multi-member district does not work its ill effect, its discriminatory effects in near majority or majority populations, but you move to a point---.

JUDGE GOLDBERG: That's the point.

THE WITNESS: Right.

JUDGE GOLDBERG: Well, say so.

THE WITNESS: I've been saying that.

JUDGE GOLDBERG: All right, that's what I wanted to hear you say. I asked if you had 99 percent Mexicans, they would have access to the political process.

THE WITNESS: There's no one else.

JUDGE GOLDBERG: Well, say so.

Now, add that to your 30 minutes and go on.

CROSS-EXAMINATION

BY MR. RICHARDS:

Q Dr. Cotrell, did you and I make similar trips to McLennan, Travis, Jefferson and Galveston Counties to those that you have described in your earlier testimony?

A Yes, we did.

Q And did our investigations in those counties comport with the kind of investigations that were conducted in Nueces and El Paso and Lubbock?

A Yes, they did.

Q Before turning specifically to the counties in question, did you find any particular similarity, at least, in electoral history with respect to the minorities in McLennan, Travis and Jefferson in terms of the electoral history wihtin those particular areas?

A Well, yes. Jefferrson, though, in my opinion is---.

Q Well, let's take them one by one.

JUDGE JUSTICE: Yes, taken them one by one.

Q Let's turn to Jefferson County.

A In Jefferson County you have what I would consider to be a very dismal situation concerning minority participation. In fact, there would be a contradiction in terms as far as people offering themselves for office and so on. There have been two -- the same person -- two times a black person has sought legislative office in Jefferson County since Reconstruction. You have all of the traditional low participation and so on, which has been described in other counties, except that you have in Jefferson County, as well as a couple of others, an almost locked-in situation. It comes closest to -- political scientists use the term "the old South model," but the old South model with a heavy industrial base.

Q Roughly what were the percentages of blacks both within the county and in the multi-member legislative district?

A The percentages, I think, roughly within the county would be upwards of 30, 33, 34 percent. In the multi-member district---.

Q No, I think---.

A Yeah, it's just the other way around. The 25 percent figure would be in the county itself, and the multi-member district which extends into another county would be roughly 30-34 percent.

Q To what extend did you find the black

minority of Jefferson County was an effective participant in the political life of the county and with particular reference to the legislative district?

A I think the black community is effectively in Jefferson County sealed off from participation. As I mentioned before, you had Mr. Al Price run for Democratic nomination in the multi-member district for the Legislature twice.

JUDGE JUSTICE: He is black?

THE WITNESS: Yes.

MR. RICHARDS: Mr. Price by his deposition, Your Honor, is identified as being the first black in the history of the United States to be hired as an American Airlines pilot, a retired Army officer, a long-time citizen of Jefferson County. He ran twice for the Legislature---.

JUDGE GOLDBERG: We've heard about his name. Let's take off.

BY MR. RICHARDS:

Q Have you done some analysis by way of the 1972 Democratic primary elections in which Mr. Price was a candidate?

A Yes, I have.

Q What did they reflect his capacity to appeal

to white as distinguished from the black people?

A Your question was considered. I was shocked by one particular comparison made in the case of Mr. Price. In '72 one of the electoral analysis contrasts was between mid county boxes. That would include places like Nederland and so on, which are heavily Union, middle-class and white areas census tracts with the Beaumont boxes, as it were, that are predominantly black in a race of six people, as I recall.

Q That's correct.

A Mr. Price in these mid county boxes ran sixth, yet included among those six was a student who by now I think he's teaching at Lamar Tech, Phil Richey, who didn't by his own concession seriously campaign. He ran sixth out of six. In our contrasts here he got 3.59 percent of the vote. Yet, he was by all standards a really attractive candidate and one of three who had gained the -- not the endorsement -- but he had gained the acceptance as one of three permissible candidates or O. K. candidates by the Labor Council in the county, so this was 3.59 percent of the vote in white areas, and, of course, it contrasted to nine point-something one in the black areas, and we ran a contract here and the same pattern held up. He did slightly better.

Q Something like 90 percent, you say, in the black areas?

A Ninety plus, yes.

JUDGE GOLDBERG: Do you have anything in the record here to show the membership of Labor Unions in Jefferson County?

MR. RICHARDS: The record testimony on this question is as follows, Your Honor, that: (1) Jefferson County was a historical refinery and petrochemical industry, heavily Unionized, a history of segregated local Unions. They were broken down in the mid 60's along separate lines of seniority, broken down in the mid 60's; that as a consequence of that -- the testimony from Mr. Nisbey, who is a black member of the Labor down there and presently N.A.A.C.P., is that the blacks no longer even hold offices in the Unions. That is the testimony that they are in a subordinate position in terms of---.

JUDGE GOLDBERG: I just wanted to know particularly how many members of the Unions there were.

MR. RICHARDS: We do not have that. We do have a history of segregated locals.

JUDGE GOLDBERG: I understand.

BY MR. RICHARDS:

Q In that connectqon, Dr. Cotrell, did you find any continuing effects of the past history of segr

tion and discrimination in politics of Jefferson County?

A Yes, there is no doubt.

Q In what way?

Well, first, how is it manifested?

A Well, in racial campaigning; the question, Mr. Richards, in Jefferson is not whether there would be one black breakthrough or this or whatever. The question there is really one of desperation and deeply based racial feelings based out of, I guess, one of the most profound feelings, that is, black people may get someone's job.

Q Has there been a history of campaigning in that county that we're told about where notably the candidate for Congress who had voted for the Civil Rights Act was opposed in part on the next election on the grounds that as a result of that vote for the Civil Rights Act they were going to have blacks taking white jobs?

A Yes, and you have instances, for example, I think most graphically what was called Proposition 15, which I believe came up in the 1971 election. Proposition 15 dealt with changing the city to a ward system for City Council elections. It was defeated, but at the same time and O.K.'d on the same ballot and in the general context of Jefferson County,

a proposition which endorsed, went from a plurality to a majority system was endorsed. Now, that item alone would mean nothing except in the context of

Jefferson County and, I think its long history of official and unofficial, as it were, racism.

Q What is your opinion as to the effect of legislative multi-member districts upon minorities' access to the political process in Jefferson County.

A In Jefferson County I would say unequivocally that as long as a multi-member district is maintained no black person stands any kind of a chance of being elected.

Q What about the responsiveness of the legislative delegation of Jefferson County to the particular needs of the minority community?

A Although I don't have detailed knowledge, I do have knowledge based on the depositions, and I believe that the legislative delegation of Jefferson County in the '50's voted for segregation statutes. I believe that you have, at least from my interview, participants, the perception of the black community is that there is practically no contact whatsoever.

Q Without carrying you unduly, but were you present during the trial of the Regester case originally?

A Only partially.

Q You are generally familiar with the record in that case?

A Yes.

Q Could you compare for us the status of the

black minority of Jefferson County with that of Dallas County as to, could you make any kind of comparison?

A All I would say is that the status in terms of participation and status in terms of probability of participation and general status of black political awareness and black political efforts, there is just no comparison whatsoever. The Dallas situation, if some would like to say this, blacks were much better off.

Q Better off in Dallas than they are now in Jefferson County?

A Yes.

JUDGE GOLDBERG: You mean prior to the reapportionment, too?

THE WITNESS: Yes.

Q In terms of the multi-member district in Dallas and how it affected blacks and in terms of how the multi-member district in Jefferson County affects Jefferson County blacks, is it better or worse in Jefferson County than it was in Dallas County?

JUDGE GOLDBERG: What year?

Q Well, in 1970 when we tried---. In 1971 when we tried Regester, I would like to compare the status of blacks in Dallas in that multi-member district with the current status of blacks in Jefferson County operating in that legislative multi-member district with respect to

whether the status in Jefferson County is worse for blacks or better than Dallas.

A Well, in the first place---.

Q Is that clear?

A Well, I would take that ---.

Q Just a short answer.

A Well, it's worse.

Q Worse in Jefferson County?

A Worse, and I would take it first from the standpoint of legislative races and so on.

Q McLennan County we visited, too, did we not?

A Yes.

MR. RICHARDS: If the Court please, it is also in evidence this is the minority tract area of McLennan County which appears also on our exhibit (indicating).

Q What were you findings, if you can tell me, about the situation in McLennan County, Waco and environs?

A I would suggest that the McLennan County situation in terms of the background, in terms of what might be called Old South agrarian model would be very similar to places like Lubbock. That is, you have a very passive, quiescent black population and Mexican-American population with little hope of any kind of electoral success or any kind of real meaningful political participation in that

county. I recall, and this is only interview comment, but I think it is permissible before the Court. In interview with Bishop Adams, the president of Paul Quinn College there in Waco, and Dr. Adams had been away from Waco for ten years. He had been there up to '62 and left and came back in the early '70's, and one of the questions I asked him was, "Has there been any change?" and this is a man very active in politics throughout the country and in Waco, member of the black federation and so on, and he said, "No, there's been no change here."

Q No improvement in the conditions of the black community?

A No improvement whatsoever.

Q Specifically, do you recall -- it is established by deposition testimony -- what happened in connection with the city elections in Waco in terms of alteration of the election machinery there when the first blacks sought office?

A Yes. This refers to a study conducted by the League of Women Voters, and what they showed was when the first black candidate ran in 1949, I believe---.

Q '58, I believe.

A Huh?

Q '58.

A '58?

Q Maybe you're right.

A When the first black candidate ran and made some showing -- I'm not sure what the amount was, but the study reflects it -- the City Council elections then were changed from ward to at-large.

Q No black has ever been nominated in the Democratic primary for any office in McLennan County. Is that correct?

A No.

Q No black has ever even run for the Legislature that we can determine?

A No.

Q What are your conclusions in terms of the effect of the multi-member district upon the black minority and its participation in politics in McLennan County?

A As it concerns state legislative districting, the district itself, state legislative politics, it would be that it has an extremely adverse effect and continues to reinforce what I described earlier as traditional and quiescent participation rate, a quiescent and traditional political outlook.

Q Do we find any continuing effects of past history of segregation and discrimination in the politics in McLennan County?

A Yes, any number of official and unofficial

acts in that area. As I have tried to describe, it is an agrarian Old South model ranging from county employment, city employment, to, well, I think desperation best describes it.

JUDGE JUSTICE: Is this set out in the depositions? If not, we better hear some evidence relating to this.

MR. RICHARDS: All right, there are two depositions taken, Your Honor -- let me just digress here for a moment. Former State Representative Tom Moore's deposition taken by the State. His deposition indicates, one, with respect to city politics with respect to Waco that they went to a ward system after much debate. The first black ran for election in Waco, ran close enough that the City Council's first order of business upon convening the new Council was to go back to an at-large system. Representative Moore testified he had observed and it was his opinion---.

JUDGE JUSTICE: Well, that's all right.

MR. RICHARDS: Black participation in politics all declined in Waco purely and simply out of frustration. We feel like it is substantially bolstered in the depositions that are presently on file.

JUDGE JUSTICE: Is there any history of responsiveness of the State Legislators to the black interests?

MR. RICHARDS: The history, I suppose, as to that -- the testimony as to that is, I guess, somewhat in conflict. There was testimony from a black witness that he felt totally as if the legislative process was alien and foreign to the black community just with no role to play whatsoever. That is the testimony of Robert Gilbert.

JUDGE JUSTICE: There is evidence relating to it. That was what I was asking.

MR. RICHARDS: Yes, Your Honor, we think there is.

JUDGE JUSTICE: All right, go ahead.

BY MR. RICHARDS:

Q Dr. Cotrell, is there anything further you wanted to add in connection with McLennan County in connection with what we observed there?

A No, simply for understanding purposes maybe, I would suggest that McLennan County with its two representatives, that the effect of the multi-member district is very similar to that in Lubbock County.

Q Now, we have had substantial live testimony

with respect to Travis County, and you were, I take it, present during the course of all or virtually all of that testimony?

A Yes.

JUDGE GOLDBERG: What county did you say?

MR. RICHARDS: Travis, Your Honor.

JUDGE GOLDBERG: Yes.

Q Can you tell us, if you will what your conclusions are with respect to the effect of the multi-member district in Travis County as regards the electoral -- the effect of the multi-member district in Travis County upon blacks and Mexican-Americans and their participation in the electoral process?

A I think that it has the same effect as it has in other counties. It may work a different way, that is, it tends to subvert and submerge and permanently cancel out the voting strength of minorities in this county.

Q So is it fair to say at least with respect to your testimony as regards the counties of Travis, Jefferson and McLennan, that it is your opinion based on the studies and examination of the evidence, that the effect of the multi-member legislative district is to cancel out the voting strength of the minorities of those repsective areas?

A Yes, it is.

Q Have you found with respect to each of those counties continuing effects of the past history of discrimination and segregation in the electoral processes?

A Yes, and we have also heard some of that before this Court.

MR. GEORGE: I will be very, very brief.

JUDGE GOLDBERG: All right.

CROSS-EXAMINATION

BY MR. GEORGE:

Q Two or three things -- first, in response to general discussion with Counsel and the Court you talked about whether multi-member districts are always bad or discriminatory, and you talk about the legacy of racism, as you called it, in Texas. Are there other factors in Texas, the electoral process, besides general racism that might make some Texas multi-member districts unconstitutionally discriminatory?

A Well, one of the factors that we considered -- I think we have heard abundant testimony -- you would have to ask whether or not, for example, there were access to what has been called slate-making or endorsement by significant political groupings. That would be a factor.

JUDGE GOLDBERG: What did you find about those?

THE WITNESS: I found that in -- I had some quarrel with the notion of slate-making in all the cases, but, nevertheless, I found there was not significant access.

JUDGE GOLDBERG: In what counties?

THE WITNESS: In which counties?

JUDGE GOLDBERG: Yes.

THE WITNESS: We used the words of the Court in Tarrant County in -- I don't think we could describe Nueces and El Paso as a so-called slate-making state legislative level. I have already described, well, Jefferson County insofar as Union endorsement is significant, and McLennan and Lubbock I described those -- I don't think you could describe the politics as slate-making at all. I tried to give that a different cast, and that is what I found. I think that pretty well concludes the counties.

JUDGE GOLDBERG: Well, that's only two.

THE WITNESS: Well, I think, Your Honor, you have to distinguish -- and I don't want to get picky here, but we have to distinguish between -- slates take the place of parties sometimes, but

they can only take the place of parties in their identification if they have a long-term success, and they are well identified in the community. I don't mean one that just popsup and someone puts it together, and they just disappear, but I think you can talk in the counties I mentioned, though, of Tarrant of the significant political endorsements, and the question then remains whether minority candidates have had access to the groups that have significant political endorsements, and my conclusion is that they have not.

JUDGE GOLDBERG: In all counties?

THE WITNESS: In all counties in which elections---?

JUDGE GOLDBERG: In all of the counties that we have discussed.

THE WITNESS: Yes.

BY MR. GEORGE:

Q Dr. Cotrell, let me continue this line a bit. Did your investigation find a kind of two-level type of legislative politics in Texas, one that is rather sophisticated with continuing groups competing in much the same way of political parties and one rather unsophisticated in which the political process takes on its cast through and

people have access to political sources through churches, clubs, and the other kind of institutions that you find? In other words, whether one is a kind of semi-party system in a one-party state, and one is where there is a kind of continuing interest that has developed?

A Yes.

Q But I believe your response to Judge Goldberg was that in the sophisticated counties or in what we call sophisticated politics where you have two or at least one or two long-term groups, the minority members do not have access. Is that correct?

A That's what I said.

Q And in the unsophisticated counties they don't have access to the majority groups, churches, civic clubs and other methods of getting known and recognized in the majority group, that is, in the white or Anglo community. Is that correct?

A That is correct. You have testimony before this Court that in those situations there is widespread segregation or residual segregation, hence, in the associations that people usually deal in that most of the candidates short of a slate-making or officially endorsing agency, that you have the same patterns of segregation and racial prejudice holding here and, of course, this is reinforced by housing patterns.

Q That's the basic response to Judge Goldberg's question?

A Yes, I have tried to compare those two situations.

Q Now, some just basic matters here. First, let me ask you, was the Republican Party a viable competitor with the Democratic Party in any of these counties for legislative seats?

A Viable in terms -- and I have to---?

Q Did they win?

A No, not in my terms.

Q O. K. Did it ever seriously compete regularly?

A No.

Q So that the Democratic Party primary election and the runoff that follows it is the significant political event for Texas legislative politics. Is that correct?

A Yes, and the way this works then if the democratic primary is your only access to the legislative level, and you must run against in many of the counties majorities that are able to control that, then the majority and the party identification itself, the majority feature and the party identification itself in a one-party state becomes significant features in the multi-member district,

and the way it works to disenfranchise and to subvert minorities.

Q O. K., let me follow that with two brief questions or at least one brief question about the -- in Texas you point out that you have this racism exist in some counties. You have a one-party system, right? Is that correct?

A Yes.

Q Which is different than Marion County, Indiana, for example. You have an at-large election system. Is that correct?

A Yes.

Q You have an at-large election system without any geographic requirement that people live in a particular place. Is that correct?

A That is correct.

Q You have a place system. Is that correct?

(REPORTER'S NOTE: There was no audible response from the witness.)

Q Now, what is the effect -- you have to answer the place system question orally to the court.

A Yes.

Q O.K., does this place system,no geographic

requirement, living requirement, and the runoffs, majoritarian runoff system enhance the discriminatory effects of multi-member districts?

A Mr. George---.

JUDGE WOOD. Wait just a minute, Mr. George.

Let me ask you this, The reason for this line of questioning escapes me. Since when is another political party, such as the Democratic Party, in any manner restricted in its prejudice against another party? Is there anything constitutionally impermissible about the Democrats saying "I just don't like the Republican, and I'm going to try to beat him because he is a Republican?" What kind of constitutional guaranties are given to be sure that the Republicans do better?

MR. GEORGE: Well, let me put it this way, first of all, Your Honor. The Republican Party's interest in this lawsuit we talked about yesterday, the fact that we were sued as an election official of the State of Texas and as the chairman of the Republic Party has an interest in seeing that the election system in Texas is constitutional.

JUDGE WOOD: Don't you feel like the Democrat can legitimately discriminate against a Republican because he is a Republican?

MR. GEORGE: They cannot create election machinery through the laws of the State of Texas that does not provide a political minority with reasonable access to the political processes.

JUDGE GOLDBERG: Did you say political minorities?

MR. GEORGE: That's my position. I don't think it is necessary for this Court to deal with it.

JUDGE WOOD: Well, how do you reconcile the purpose of gerrymandering that the Democrats are engaged in allegedly in Texas to accomplish this precise result, and the Supreme Court has approved it? They can make it look like serpents. They can make it look like -- as long as it gets the one man-one vote in this thing, in this serpentine-looking district, I just don't see where, as long as the constitutional requirements of one man-one vote are met under the Douglas opinion, why is there any reason that the Democrats can't discriminate against the Republicans because they are Republicans and just fight them tooth and nail because they are Republican or vice versa?

MR. GEROGE: My position is very similar to the position taken by the Supreme Court in the

Wallace versus Ohio cases and the access to the ballot cases and the requirement for primary cases in that parties -- for example, Ohio had a system providing for an inordinate number of signatures on a petition before a name or a political party could appear on the ballot of that state. That kind of affirmative legislative action to prevent political parties to have a reasonable chance to win is the kind of activity that we have claimed that affects Republicans through the multi-member district system. We don't believe and this Court has held that we don't have any separate remedy available to us that is not available to the minority groups.

JUDGE WOOD: Are you asking this Court to redistrict the state in such a way as to give better representation to the Republicans because they are Republicans?

JUDGE GOLDBERG: No, he's saying that if we redistrict the state and give the minorities these benefits, he is the beneficiary of it, although he is not necessarily the constitutional beneficiary. Is that right?

MR. GEORGE: Exactly.

JUDGE WOOD: Is that what you're saying?

JUDGE GOLDBERG: Sure, that's what he's saying.

JUDGE WOOD: All right.

(LAUGHTER)

JUDGE WOOD: I still question where is your constitutional standing in this case.

MR. GEORGE: Well, first of all, we were sued as a public official of the State of Texas. Now, we were brought into this lawsuit just like the Democratic Party Chairman who decided not to take an active part in it, although pressing an active part in it the first time around.

JUDGE WOOD: All right, let's go. Thank you.

BY MR. GEORGE:

Q Well, finally, I was asking you about the place system, the majority runoff system and the no geographic requirement provision that this Court talked about in its Graves opinion. Those continue to exist in Texas, do they not?

A They do.

Q They exist in all these counties, do they not?

A They do.

Q And they enhance the discriminatory effect of the multi-member district, do they not?

A They do, and there is one final feature in ballot systems.

JUDGE GOLDBERG: What?

THE WITNESS: Well, the runoff which correlates with the majority system, gives you a second chance to take a look at your candidates.

MR. GEORGE: Yes, this was discussed by this Court previously.

All right, thank you very much.

JUDGE GOLDBERG: All right, Mr. Gladden.

MR. GLADDEN: Your Honor, we began this tour in Tarrant County. If perhaps we might end it there---.

JUDGE GOLDBERG: I hope you're on the outskirts.

MR. GLADDEN: I am on the outskirts and will try to be very, very brief.

CROSS-EXAMINATION

BY MR. GLADDEN:

Q Dr. Cotrell, you were present, were you not, at the time Mrs. Fischer testified relative to the ethnic and economic layout of Tarrant County?

A Yes, I was.

Q And District 32 particularly?

A Yes, I was.

Q And you have had an opportunity to examine the summaries that were presented the Court, as well as the evidence in support of those summaries, have you not?

A Yes, I have.

Q Do you have an opinion based upon the testimony of Mrs. Fischer, the deposition testimony and the summaries in evidence and the exhibits that are in evidence as to whether or not there has been an effective suppression of minority voting rights in Tarrant County or in District 32?

A Yes, I do. The multi-member district in Tarrant County works to cancel or minimize minority voting strength.

Q And that is particularly so when slating

processes are used to eliminate participation?

A Yes.

Q Now then, I believe that you in response to Judge Goldberg's question told the Court that your primary concern in your evalauation was along ethnic or racial suppression of rights. Is that not correct?

A Yes.

Q And you told the Court that you were not suggesting to the Court at this point, though it was important, you felt there was a constitutional prohibition against participation under socio-economic basis. Is that correct?

A There is, as I understand it, no constitutional prohibition. My own personal feelings may be something else.

Q In that connection you are aware that the Escalante case is based on both ethnic and economic contentions, are you not?

A Yes, I am.

Q In connection with the Tarrant County or in District 32 situation, you were present at the time that Mr. Dillard testified, were you not?

A Yes, I was.

Q And his testimony that no one in his southeast quadrant of the county had ever been elected and that in order to run for office it would be necessary to obta

financing outside the economic area in which he resided in order to run district-wide, were you not?

A Yes.

Q You were also present when Mr. Webber testified, were you not?

A Yes, I was.

Q And his testimony relative to the $27,000.00 he spent, all but $1,400.00 of it was either personal money or outside the resources of his community?

A Yes.

Q Do you have an opinion, Dr. Cotrell, as to whether or not the economics of a multi-member district wherein there are nine races at large would have the effect of, based upon the evidence in the record, suppressing the economic minority or the poor?

A I have not made the study from this point of view, but my opinion would be that it would, and I think that impact studies of multi-member versus single-member districts after single-member districts in Bexar and Dallas and so on exist may, in fact, I feel certain will bear this out.

Q One further question in connection with the demeanor and the relationship between ethnic minorities who are elected from single-member districts, such as Mr. Reyes, and ethnic minorities who have run significant but

unsuccessful races in larger multi-member districts, such as Mr. Webber, who had the $27,000.00 campaign, Mr. Barrientos here in Travis County, the projection of the economic backgrounds or immediate economic backgrounds make a difference in the Anglo attitudes toward minority candidates, do they not?

A Mr. Gladden, I would think that questions of class in attitude structures would make a difference. I have not -- my own opinion is they would. I have not, however, conducted the study from the standpoint of looking for, as it were, reference or indicators of class in elections, but it would make a difference in my opinion.

Q You did observe Mr. Barrientos and Mr. Webber testify, did you not?

A Yes.

Q They did project the social and economic attitudes of the white majority as compared to the traditional low income ethnic minorities that you have been here testifying about, did they not?

A In an interview with Mr. Barrientos he did suggest that this was the case, yes, and you're speaking of projection. That's more difficult to measure. An anecdote he had, however, was imformative here, if it is permissible, and that is that---.

MR. YORK: Your Honor, Mr. Barrientos

testified at great length, and I would object to this witness giving some hearsay testimony about what the witness who was here two days ago---.

JUDGE GOLDBERG: Yes, I think you're going to have to ask him to give you his expert opinion on the facts that Mr. Barrientos testified. Is that what you're trying to do?

Q Yes, based upon Mr. Barrientos' testimony of a college education and being in the public relations business between ethnic minority and the Anglo community, and based upon Mr. Webber's testimony as president of a corporation and spent significant sums of his own money, do you have an opinion as to whether or not they are typical based upon your awareness of these districts from which they came as to whether or not they are typical of the economic levels of the communities of the ethnic minority communities.

A No, you could not say they were typical.

Q Do you have an opinion as to whether or not their lack of typicality had a significant bearing upon their relative success in running in a multi-member district wherein there is a white majority?

A I would suspect from other studies that the so-called Anglo-ization of minority candidates would have an effect. I did not, however, do any survey work that would demonstrate this in those particular races.

MR. GLADDEN: I believe that's all. Thank you very much, Your Honor.

MR. BONNER: I have only one question.

JUDGE GOLDBERG: All right.

CROSS-EXAMINATION

BY MR. BONNER:

Q Dr. Cotrell, in arriving at your conclusion ---.

JUDGE WOOD: You have to state your name.

MR. BONNER: Norman Bonner for the Gaskin Plaintiffs.

Q In arriving at your conclusion that the multi-member district in legislative District 32 discriminates against the black and brown communities or the black and brown voters, did you have the benefit of a visit to Tarrant County in addition to the exhibits presented here?

A Yes, I did.

MR. BONNER: Thank you.

JUDGE GOLDBERG: Do Plaintiffs and Intervenors or anyone else have anything to say? Mr. York?

MR. YORK: If I might make a suggestion to

the Court. This witness' testimony has been fairly lengthy. I believe we could substantially shorten our cross-examination if we had the opportunity to spend a little time at lunch and come back perhaps 15 minutes earlier than we otherwise would have, unless the Court has plans.

JUDGE GOLDBERG: All right, at 1:15. Now, how long do you think it is going to take?

MR. YORK: I would think about an hour, Your Honor.

JUDGE GOLDBERG: Everything you've got?

MR. YORK: No, sir, I was thinking of an hour in terms of this witness or perhaps 45 minutes and then about another 45 minutes.

JUDGE WOOD: How many witnesses do you have remaining?

MR. YORK: We have two, Your Honor.

JUDGE WOOD: Are all the Plaintiffs and Intervenors, are all their witnesses now concluded with this witness?

MR. RICHARDS: Yes, Your Honor.

JUDGE WOOD: So the only witnesses remaining, Mr. York, will be your cross-examination of this witness, and you have two witnesses. How long will those witnesses take?

MR. YORK: One is Representative DeWitt Hale that we talked to Counsel about, and the other is Mr. Wright. They're both of the same general type, as the Court can see. I wouldn't think they would run but about 20 minutes on direct and however much cross.

JUDGE GOLDBERG: Let's do our best to get this thing buttoned up by 3:00.

MR. YORK: Certainly will, Your Honor.

JUDGE GOLDBERG: Let's make that our objective, a laudable one.

Stand in recess until 1:15

(REPORTER'S NOTE: The Court then, at 11:45 o'clock, A.M., December 5, 1973, recessed until 1:15 o'clock P.M., the same day, at which time it reconvened.)

December 5, 1973
1:15 PM,

JUDGE GOLDBERG: Mr. York, are you back?

MR. YORK: Yes, sir. I'd like to thank the Court for the indulgence of stopping a few minutes early.

JUDGE GOLDBERG: All of you I'd like to say have been very cooperative and the Court is very appreciative of all matters connected with this.

MR. YORK: We've been very appreciative of this multi-member Court's responsiveness so far, Your Honor.

JUDGE GOLDBERG: Have at it.

CROSS EXAMINATION,

By Mr. York:

Q Dr. Cotrell, when did you begin your study or your tour of Texas relating to the testimony you have given?

A I began in late September or early October.

Q And by which of the particular groups that are here as Plaintiffs or intervenors were you employed, or were you employed by all of them?

A By all of them.

Q All right, including the Republicans?

A Yes.

Q All right. How much time, if we can take it county by county -- you told us about spending two days out in

Lubbock and I think two in El Paso.

A Yes.

Q Now, those towns are counties of course of somewhat different sized in population, are they not?

A Yes, they are.

Q You spent equal time in each?

A Yes.

Q How much time did you spend in Nueces County?

A Three days.

Q All right. And in McLennan County?

A A day-and-a-half.

Q And in Travis County?

A A day-and-a-half.

Q Jefferson County?

A Two days.

Q Have I asked you about Tarrant County?

A Two days.

Q All right. What does that leave?

A It must leave Galveston.

Q Galveston. And Hidalgo.

A Hidalgo, no contact this time seriously. Physical contact that it.

Q You spent three days in Galveston?

A Yes.

Q And during that three days, you were unable to come

up with any evidence that multi-member districts as used in Galveston operate to exclude minorities from the elective process?

A According to the interviews, etc, no.

Q All right. And in Hidalgo, you simply did not go to Hidalgo County at all?

A That's correct.

Q Would I take it from your earlier answer that at some time in the past you have been to Hidalgo County?

A Yes. Maybe I didn't make this clear. I taught for a year at Texas A&I University in Kingsville. And at that time I had occasion to spend some time in a number of south Texas cities.

Q Well now, Kingsville of course is about 90 miles or 120 miles from Edinburg?

A Yes, more like 100 some miles.

Q And Edinburg is the County seat of Hidalgo County?

A Yes.

Q You never made any trip to Hidalgo County specifically for the purpose of making a study for this litigation or other litigations. This is just a general perception, isn't it?

A A general perception, yes.

Q From having lived for awhile 120 miles from Hildalgo County?

A That's correct.

Q All right. It seems to me that the writings you have done, if I have interpreted what's in the record correctly, have been mostly in the area of the Mexican-American minority. Would that be a fair characterization as opposed to the black minority?

A The work that I have done in terms of attitude, research and so on could be generally characterized like that, yes.

Q All right. And you agree that there are differences between the needs and particular problems of the black community as opposed to the Mexican-American community?

A Most emphatically.

Q All right. You have told us then, for instance in Nueces County, how many representatives have been elected there of Mexican-American ancestry since reconstruction?

A That's in the record several times. Two according to my study. Two according to my study have been elected.

Q In Nueces County?

A In Nueces County, yes. Elected.

Q And who were they?

A They were Mr. Carlos Truan who we have in Court and they were Mr. Tony Bornillo in 1964.

Q And that's since reconstruction?

A Yes.

Q If we went back to the year 1600 the answer would be the same, or if we went to the year one, the answer would be the same, right?

A Yes.

Q But if we look at Nueces County in the last 10 years, would you agree that only once only in one session of the legislature in the last 10 years that Nueces County has been without at least one Mexican-American in it's legislative delegation.

A That's correct, Mr. York.

Q I assume that if since reconstruction there had always been Mexican-Americans in the delegation, but in the last ten years for some reason unbeknownst to man they had suddenly been removed from the delegation, I would assume that your position would be "Well, we can't look back to the past, we've got to see what's going on now", as far as how they are being discriminated against. Would that be true?

A Yes, it would be. I would like to point out something however.

Q All right. Point away.

A You do have Mexican-American representation in the State Legislative delegation, but the electorial analysis combined with a racial polarization demonstrates that when that Mexican-American representative Mr. Carlos Truan must face an electorial majority in the county, the chances of his

remaining, if I may say in predictions, I believe he corroborates this, the chances of a Mexican-American remaining with racial polarization existing in a white electorial majority are very, very slight.

Q Well, let's talk about that for a minute. You have given an illustration that Representative Truan won by a handy margin in 1970 and by a reduced margin in 1972. And I think you have characterized that as evidence of increased polarization in the county.

A I'm sorry, Mr. York, I didn't say that. I said that in this race of Mr. Truan against Mr. Smith in 1968, the electorial majority was substantial. However, in the race in 1972, Mr. Truan won against Mr. Coleman who has been characterized as an incumbent and not a particularly well known individual in Nueces County by a mere 3,000 votes. This flies in the face of every study I have ever seen concerning incumbents and their chances of returning.

The Schlessinger Study shows that an incumbent's chances of returning after he has won his first election are substantial. So, one must look carefully at that '72 race. We have to look carefully at Mr. Truan. I think you heard his testimony here yesterday. And you have to look at the effect of the school case in Nueces County and the stances that Mr. Truan took as far as representing the particularized needs of minorities and the more visible recognition he has

received. It's on that basis that I make my conclusions and make my predictions, Mr. York.

Q Let me ask you, whose study is it about incumbents?

A The Schlessinger Study concerning incumbency in general.

Q What if the Schlessinger Study and Standards had been applied to Texas as a whole in 1972, but nobody told Mr. Schlessinger about Sharpstown? Do you think that might throw a kink in his theory? Would he be a little bit amazed that his theory wasn't working just right?

A Most emphatically. That's why I think you must look at Mr. Truan's background for something that was charge in corruption or something connecting Mr. Truan in the scandal. Mr. Truan however in the year they were sweeping the people out of office who had been associated with the scandal, was a member of, I understand, the dirty 30 which was opposed to the scandal.

Q Well, let me make one thing clear, if it's not clear to you. No one in his right mind that I know of has suggested that Carlos Truan was connected top, side or bottom with the Sharpstown scandal.

A I realize that.

Q I know of no such information. But my point is that he was in a race down there which would have to be looked at on those issues and not on somebody elses-- Where does

Mr. Schlessinger live?

A Mr. Schlessinger probably I think lives in Cambridge.

Q And he probably hasn't even been as close to Nueces County as Kingsville.

A That's correct.

Q All right. Now, do you think, legitimate or not, do you think that a public dispute with the Bishop of Corpus Christi might have an effect on the outcome of the race in that area?

A Could. Yes, it could.

Q Well, it would just be inconceivable that it wouldn't have some effect in an area that's 40 percent Mexican-American, wouldn't it?

A Yes.

Q What do you know about that particular dispute?

A Very little.

Q Any?

A Very little. I know it occurred. I don't know the details of it.

Q You don't have any way of knowing how that impacted on the voters in Nueces County, do you?

A Mr. York, was this a Catholic Bishop?

Q I think he was a Catholic Bishop.

A Then the effect--again, my view would be, my opinion would be the effect then should have hurt him dras-

tically in the Mexican-American precinct, not the south of Weber Road precinct.

Q How on earth, now really being fair with both sides and being fair with the Court, how on earth could you come to a conclusion like that without knowing what the dispute was?

A If it is --

Q Suppose the Bishop was mad at the other candidate.

A Well, it's based on this view, based on the view of the Mexican-American religious affiliations and the affect that has on the -- I was looking for the loss of support among the Mexican-Americans. And I cannot comment on the religious demonations of those people south of Weber Road.

Q Would you concede even this much, would you concede that it's a possibility that you are wrong on your assumption and that the factors which caused Representative Truan to draw a lesser majority in 1972 were related only an legitimately to the issues involved in the race? Is that a possibility?

A I would concede there is an alternative explanation, but the voting analysis upholds a racial polarization which coincides with introduction of racial issues in Corpus Christi.

Q Who was the other fellow that ran?

A In 1972?

Q Yes.

A Mr. Coleman I think it was.

Q How did he come across on TV?

A I don't know.

Q Did he have a pretty good radio voice?

A I don't know that.

Q You have made a statement and I don't -- I assume it was a slip, it was quite possibly a slip when you were talking about Mr. Price I believe in Beaumont or in Jefferson County.

A In Jefferson County, yes.

Q Do you recall calling him Mr. Black at one time?

A That's correct.

Q Do you kind of think of these things in black versus white and black versus brown terms as opposed to people?

A Mr. York, I was asked to conduct a study concerning the -- One of the areas of concentration was the study of racial polarization or lack thereof in some select elections and the overall impact that would have concerning the evidence of racial prejudice in multi-member counties. Insofar as I was asked to do that, yes, one of the things I had in mind was black, white, brown.

Q All right. Do you know, for instance in Hidalgo County what the number, if we want to use this magic time of reconstruction, what the number of Mexican-American public officials has been since reconstruction.

A I do not. It has been significant however.

Q All right. As I understand it, you have after studying and getting your PHD and after spending this time in studying these counties, you have come to the conclusion that there is a tendency among Anglos to vote for Anglos and a tendency among Mexican-Americans to vote for Mexican-Americans, and a tendency among Mexican-Americans when there are two Mexican-Americans in the race to divide their vote and a tendency when there are no Mexican-Americans, to vote for the most popular Anglo.

A The latter conclusion is correct in most cases.

Q Did that conclusion come to you fairly late in life, or have you held that view --

A Mr. York, I have taught Political Science at the College level for 12 years. It is that conclusion that could be formulated in terms of a hypothesis and one would expect to find that in Texas. So, that was the way in which that conclusion as it were came to me. Other voting studies demonstrate the same thing.

Q Would you expect that all other things being equal, the Chinese would likely vote for Chinese and Anglos would vote for Anglos and that two Chinese in a race would likely divide the Chinese community and if there were no Chinese in the race, that the most popular other candidate might get the vote?

A I would think that would depend upon the particular

situation in the area and the degree of racial polarization and the awareness which exists in any single election contest.

Q All right. That's kind of a press conference answer, but we will -- Would you concede that there is a degree to which a tendency of that sort might not rise to the level of being what we might label as prejudice? In other words, if for instance a woman would be more inclined to vote for a woman candidate, all other things be equal, would you be able to concede that to some degree that that might not have to be labeled just as blind prejudice, but just as kind of a okay sort of human preference.

A Mr. York, there is no suggestion here that the voting surveys or any of the electorial analysis undertaken in this study would get into the intent of the voters involved. However, the suggestion is that when this behavorial fact is placed in the context of a multi-member district, it acts to conspire and hints to cancel and minimize the voting impact of Mexican-American and black minorities.

Q You characterize it as a conspiracy.

A In a non-legal sense, it's an aggregate of factors. It tends to converge, to minimize and cancel the participating impact of Mexican-Americans and blacks.

Q Well now, isn't it a fact that in your attitudional studies, would you believe that most Anglos would think that a candidate who was clearly indorsed and accepted by

Mexican-American community would likely be a "liberal candidate?

A Not necessarily. There have been a multitude of elections. I couldn't make that conclusion.

Q You really wouldn't be ready to conclude that the Anglo community would likely think that the Mexican-American candidate was probably a, in the context that we use the terms, liberal as opposed to a conservative candidate.

A No. If I understand your question right, what is involved here is two different kinds of cultural experience. In fact, in the case of the Anglo, possibly cultural experiences versus cultural experiences. And what's involved here is the identification of many Mexican-American candidates as representing the particularized and cultural background of that group. And the same could be said for blacks. And that's the phenomenon involved. I don't think liberal and conservative is the issue here.

Q Well, you wouldn't agree with the former State Representative Tom Moore from Waco then when he says in his deposition that he believes that the division in McLennan County is not along black-white lines, but along liberal and conservative lines. Do you disagree with the former Representative?

A If I'm not mistaken about Representative Tom Moore's deposition, did he not also say that the chances of a black person being elected in McLennan County are impossible.

Q Well, lets just go turn about. If you will answer my questions first, then maybe we can come back to yours.

MR. RICHARDS: His deposition is in evidence. And I suppose if he wants to confront the witness with it and let him read it, and not test his recollection about the deposition, --

JUDGE WOOD: Well, don't answer the question by asking another question.

THE WITNESS: Would you repeat the question.

MR. YORK: I'll ask you, if I can find the page reference, I'll just read it to you directly.

THE WITNESS: Okay.

JUDGE GOLDBERG: It would would speed it up if you would summarize what he says he thinks Mr. Moore testified. We could spend hours trying to find it in the deposition.

Q (By Mr. York): I submit to you that Representative Moore, and I'm sure you are aware from talking to the lawyers in the case that the Plaintiffs attempted to get Mr. Moore to give a deposition for them and he refused and gave one for our side.

MR. RICHARDS: That's not true. If we are going to do this by cross examination, let's at least represent the facts accurately. I assume since I was the plaintiff's attorney in Waco, I speak the facts, and that's not true.

JUDGE GOLDBERG: Well, Mr. York, in the interest

of time if you want to attempt to summarize what the deposition says, I think that's all right. But if you can't be accurate about it, then we will have to take the time and look it up.

Q (By Mr. York:) Well, I believe it's accurate to say that Representative Moore did make that statement, that his opinion of the division in that county were along conservative-liberal lines as opposed to black versus white lines.

And if I understood your answer a while ago, you agreed with that but then said he had also said something else. If that true?

A That was my understanding, Mr. York, yes.

Q All right. Of course as you well know, Mr. Moore was a member of what has been referred to as the dirty 30 Legislatores in Texas who were of a composite group but I guess all of us would concede and agree that Tom Moore was viewed as being a liberal, or would you agree with that?

A I'm not in command of his voting records. I would take your word for it.

Q But, I mean in fairness wouldn't you have to give some credence to an opinion held by a man who had, as you say, offered himself? Do candidates ever just run, or do they always offer themselves for public office?

A To hear the candidate tell it, he offers himself.

However, there are two different situations of offering in this case. One would be a situation which has been called in this courtroom slating. Or I would say indorsing by visible and significant political groups in the County. And the other situation would be one wherein a candidate must, as it were, go to social groups for his identification, support, feedback and so on.

Q I suppose that you would, even being in the academic community, that you don't totally fail to give credence to the opinions of those who have actually gone out and run and succeeded in being elected from these areas that you have visited only briefly. You don't totally discount their opinion, do you?

A I think you are saying something that I didn't say at all. Anyone who has residence in an area has a degree of credibility.

Q Well, would you concede then that a resident who had successfully run from there is a liberal candidate and then who made the statement that the division in McLennan County was along liberal-conservative lines as opposed to black-white lines would be entitled to more credence than your conclusion based on a two day visit?

A No, I wouldn't reach that conclusion for reasons I have already indicated.

Q All right. Now, you are present in Court when all

of the El Paso depositions, or all of the El Paso testimony was presented, were you not?

A Yes, I was.

Q Were you impressed by the fact that the only Mexican-American offered by either side as a witness was Mr. Morales who was called as a witness by us, a 23 year old man who had driven 600 miles in his own car to be down here to give his view to this Court and who concluded that he didn't want single member districts in El Paso County and that there was good sound reasons in his view after having worked there for a long time to believe that the interests of the Mexican-American in the community were greater served and better served by the present multi-member system?

A The question is --

Q What do you think about that?

A What do I think about Mr. Morales coming 600 miles by car and offering his opinion that he didn't want multi-member districts?

Q Does it impress you that he's the only Mexican-American who has testified in the whole case from El Paso?

A Well, in my opinion I was impressed by the fact that he had come 600 miles. But in my interviews with eight to ten Mexican-Americans in El Paso, they all reached different conclusions on Mr. Morales.

Q Where are they now?

A They are in El Paso.

Q All right. Not subject to anybody's cross examination?

A That's true.

Q All right. Mr. Morales -- you sat through the whole case?

A Yes.

Q My feeling about Mr. Morales was that his was the most vehement, not in terms of the substance of what he said, but he got the most excited and he was the most sort of enthusiastic about his testimony of any of the witnesses who've been on the witness stand. Would you agree with that?

A We are speaking of projections. I really couldn't agree with it, but it would be a question of my perception as opposed to yours.

Q That's a question that runs throughout your testimony, isn't it?

A Of my perception?

Q Versus mine or the Courts or the other lawyers or the people that elect the people that go to the State House in Austin. It's just your perception versus theirs a lot of this time, isn't it?

A Mr. York, if you are referring to opinions of how a person on this witness stand appeared to me sitting in the back of the room as opposed to you, I would agree. If you

are suggesting that the conclusions which have been reached after the study are simply matters of conjecture and evidence that can be thrown to the wind, I couldn't agree.

Q Would you agree that well motivated experts in your field may well disagree with you as to the conclusions that you have stated to the court.

A I would agree that that is possible. I know of none nor have seen any in this Court.

Q All right. Of course of the nine counties that the Plaintiffs started the trial on in the case, as I understand it, they have now confessed that they can't prove any thing in Hidalgo County and Galveston County as far as multi-member districts, how would you as the Plaintiffs expert rank the other counties in terms of the degree of strength of proof that a multi-member system discriminates against authorities?

A Mr. York, I have tried to paint a picture for the purposes of understanding, for the Court's purposes and so on of different sets of situations wherein the legal frame work of multi-member districts tends to submerge the voting effectiveness of minorities. And I don't think that a ranking of the sort that you ask for is in order.

Q Well, in order in whose view? Yours or the Courts or mine or who are you speaking for?
A Well, it would depend upon the factors of severity.

I would think however in my own testimony I was deeply impressed by the evidence of counties such as Jefferson, such as Lubbock, such as McLellan and so on. But --

Q Where is McLellan County? I missed that somewhere.

A Waco.

Q McLellan County?

A But as far as severity goes, that is not a proper conclusion that can be made here.

Q Well --

A I was asked to see whether or not multi-member districts worked adverse effects in these counties. And I concluded that in seven of the nine, they indeed did. And I concluded that the multi-member district per se in the other two counties did not. That's what I speak to.

Q Well, you agree, or I assume you agree from what you said earlier that it is a continual that we are talking about with no magic breakoff point on population, history and all of that, that these counties don't stand all absolutely on the same footing. That the problems you see in Dallas with it's large multi-member district are not the same problems you see in Hidalgo with the two member multi-member districts. Do you agree with that?

A They stand on this footing, they stand in terms of adversely affecting minority participation and voting strength. They stand equally in my view in terms of the

and nature of discrimination in these counties, in terms of the particular incidences, in terms of particular elections. There is a great wide difference. I really hesitate to give some rank order of desperation and frusteration and alienation in these counties vis-a-vis the minority groups. I don't think that's appropriate before this Court.

Q Well, did you think it was appropriate before this Court before lunch when you did just exactly that with regard to Jefferson and Dallas?

A I suggested that I was deeply impressed by the plight of the people there. I think that the elections statistics and the kind of segregation which existed there and still exists and the racial polarization speaks for itself. I didn't understand myself to be giving a ranking which would say that this county is really okay while this one is not. Now, the two counties which I'm not defending as to the adverse effects of multi-member districts I have already stated. Those were Hidalgo and Galveston, Mr. York.

Q You told the Court that Jefferson was worse for minorities than Dallas, didn't you?

A Well, the "worse" in that context referred to the kinds of incidences, fire bombings as late as 1968. In 1965 the public library was just desegregated. These kinds of things impressed me.

Q All right. Now, you could look into Nueces County

and find out if they had had any fire bombings or when they opened their library and tell the Court whether you think Nueces is say worse than Tarrant or better than Tarrant or just as bad as Tarrant.

A If there are similar indicators, I could render opinions. But I'm not sure it would be helpful for the Court's conclusion as to whether or not a particular multi-member district in a particular county submerges a minority.

Q All right. You are just going to leave it all on an equal footing?

A I mean my opinion would not be that helpful. There is other evidence in fact, piles of other evidence substantuating the official racial segregation and the unofficial segregation and discrimination in those counties.

Q You just won't tell the Court among the seven which is the worse and which is the best?

A Mr. York, you are asking the questions. I'm not responding to you.

Q I agree with that. Thank you. Out in Lubbock County, you made the statement I believe that somewhere you heard that there was an allegation that anytime a Mexican-American ran well, that the precinct lines were changed in the County Commissioners precincts.

A Well, no. I don't think I made myself understood to you. I said that there was an allegation that I heard in

the interviews that in the County Commissioners race, I believe it was the 1966 race, that this had happened.

Q Then it was an allegation that the precinct lines had been changed eight or nine years ago as opposed to an allegation that they were just changed at any time somebody came close.

A I was on the stand for two hours. I don't recall saying that anytime a Mexican-American in Lubbock County came close to making a good showing that these lines were changed.

Q Of course you don't know whether they were changed in 1966 or not.

A I listened to an interview and I think I sufficiently qualified that, Mr. York.

Q Somebody told you that, right?

A Yes.

Q Okay. Did you read in Mr. Sowder's deposition, the former Democratic Committee Chairman from Lubbock that the Commissioners race which you've been talking about, the one in 1972 I believe --

A Yes.

Q Was one in which the Mexican-American was running from Lubbock and that the Anglo on the other side ran from the little community of Idalou.

A I don't recall that specific portion of Mr. Sowder's deposition, but --

Q You remember that that happened, and his view of it was that that commissioner from that precinct had always lived in Idalou. And everybody in Lubbock County knew that and that actually the Mexican-American living in Lubbock was campaigned against by other Mexican-Americans just because that's the way they've done it generally, that that commissioner lived in Idalou, and that's what turned the race more than anything else was the fact that they were changing something that had been there historically.

A This is the Chicano race?

Q I believe that's the one.

MR. KORBEL: Counsel is confusing two races. He's talking about the '68 race and the other race was in 1970 if I'm not mistaken. The Idalou race was in 1968.

JUDGE GOLDBERG: Well, we will read the record.

Q (By Mr. York:) Let's talk about the Idalou race. That's the one I want to talk about for a little bit.

A This is what I did in the electorial analysis, that I think shows convincingly that Lubbock in terms of attitude studies, in terms of behavior, in terms of voting behavior and electorial analysis is a frozen situation. I looked at that race, and you find the Mexican-American boxes (I could recall them for you, but we won't take the Court's time) running four or five and I think as high as eight to one. And you find in the predominately white areas of Lubbock, you

find the opposite. That's what I based my opinion on.

JUDGE WOOD: Well, he didn't ask you that question. He asked you if you were familiar with the situation.

THE WITNESS: I had suggested to him, Your Honor, that I was not familiar with that portion of Mr. Sowder's deposition.

JUDGE WOOD: That's all he asked you.

Q (By Mr. York:) Now, let's talk about Lubbock for a minute as being a county which has a Mexican-American population of about what? 12 to 15 percent?

A I think it is 16 percent.

Q 16 percent?

A Yeah.

Q And generally as you have given your testimony, as I have perceived it, you have seen polarization as a bad thing, as a bad indicator in a county.

A I use racial polarization to demonstrate in conjunction with other factors, that a Mexican-American or a black candidate faces a wall of voter hostility.

Q You have characterized it repeatedly throughout your testimony as saying that Mexican-Americans would vote for other Mexican-Americans, but the Anglo would vote against Mexican-Americans.

A In terms of the general findings, I would stand by that conclusion.

Q Another way of saying it might be that Mexican-Americans would vote for Mexican-Americans and Anglos for Anglos as opposed to against Mexican-Americans. Would that be true?

Let's take Lubbock and suppose we cut Lubbock into two districts and we put this entire 16 percent Mexican-Americans into one district, you of course have conceded that that would be no guarantee to them that they could elect a representative, but you have indicated that that would give them a better chance to influence at least the outcome or the selection of that representative. Right?

A Yes, I have said that.

Q And to do that, that Mexican-American community would only -- they are 16 percent --

A And seven percent black population.

Q Seven percent black?

A Yes, sir.

Q Would have to stay pretty polarized even in their single member district if they were going to expect to exert very much influence as a cohesive group, wouldn't they? Wouldn't you encourage them to by golly stay together and let's push hard together and everybody get behind the same fellow.

A Could I respond to that?

Q That's the procedure, sure.

A Yes, of course, Mr. York. Yes. And in fact I would suggest that with this 25 percent minority population or the 16 percent or whatever percentage we are dealing with, a smaller district which subtracts the number of 75,000, makes the district 75,000, allows the Mexican-American and black voters to more effectively influence their legislator, and to do this of course through elections. That's what I understand democratic politics to be about.

Q But, they would need to stay together, won't they, even in that single member district.

A Yes, they would. And given a long history, as you well know, of racial discrimination and subjection and deference in this state, I can only conclude that that's a rational way of protecting particularized needs.

Q I don't quarrel with it, but I'm just saying that you wind up with a polarization which every way you go.

A In the particular Lubbock situation, I doubt that you would have as much polarization in the single member district as you would in a multi-member district. And the adverse effects, the adverse effects of the multi-member districts encourage, not discourage, encourage racial hostility in voting.

Q I understand that that's your position.

A Yes.

Q But your position, if you could fix the whole state

the way that you decide it should be, you would still have people polarized one against the other, race by race.

A No. I don't think we've gotten into what I consider to be the criteria or standards underlying what the single member district should encompass.

Q Well.

A I do take the position that single member dis-districts are a remedy.

Q Well, one of the factors that one would need to take into account in evaluating the testimony of any expert such as yourself would be to know what pre-conceived notions the expert went into the study with. Is that true?

A Most definitely.

Q And you have already advised the Court that you've gone into the study, not agreeing with the United States Supreme Court when it says that multi-member districts are not unconstitutional per se.

A No, That would be a legal question, Mr. York. I had thought that multi-member districts would work the same discriminatory effects. But I found in the case of Hidalgo and Galveston that this in no stretch of the imagination could be said.

Q You not even by any stretch of the imagination could Hidago or Galveston be said to be discriminatory by their multi-member districts?

A Well, I stand by what I said.

Q All right. Let me ask you just one or two final questions. You are of course aware that in Tarrant County when Mr. Webber ran, Bobby Webber whom you saw testify that he almost won his race. He missed it by one percent in the run-off.

MR. GLADDEN: If the Court please, I believe his testimony was seven or eight percent.

JUDGE GOLDBERG: The record will tell. He missed it by a percentage point. Go ahead.

MR. YORK: By eight percentage points?

JUDGE GOLDBERG: No, by a percentage point.

MR. YORK: Do you remember the figures of 43,000 versus 42,000?

MR. RICHARDS: If your Honor please, I think Mr. York has confused two races. The Travis County race and the Tarrant County race.

Q (By Mr. York:) Well, I won't belabor the exact statistics, but in any event, Mr. Webber's race was a very close race?

A It was.

Q And Mr. Webber's ethinic race, the black race, is a very small, relatively small percentage of Tarrant County.

A That's true.

Q And running county wide, that has got to indicate

that that particular race didn't polarize too badly, doesn't it?

A What you find on the Webber race is first a racial polarization but not to the degree that you would find it in other races. But you have to examine Mr. Webber more closely. This was a well financed, I believe $27,000 or $28,000 campaign. Mr. Webber had received indorsement of organized labor as I understand it in Tarrant County. And we are speaking in all of these counties -- this is what's amazing -- you are speaking of a close race or an almost. The fact is, Mr. York, that Mr. Webber lost.

Q Well, we are all aware of that. And none have been elected from Tarrant County since reconstruction. We are aware of that. Or since the earth was created, we are all aware of that. But if we took the last five years in Tarrant County and look at what might happen to Mr. Webber if he ran the next time, having some name identification and having some identification before the public and having come that close the last time and looking at now and what has happened recently instead of the dim distant past, don't you think he might just by golly get elected the next time if he ran?

A No I don't, Mr. York.

Q You don't think he would come up that three or four percentage points?

A It might be with that kind of familiarity that he

would receive even less support.

Q Well, why would it be if we are going to get into the area of mights, that you won't give me a might that he might win but you will go the might that he might get beat worse?

A Well, I offer an opinion on it based on what we have placed in evidence in the electorial analysis, and that's my conclusion.

Q All right. Now, you made a statement in regard to talking about both Mr. Webber and Mr. Barrientos in answer to Mr. Gladden's question that neither one of them represented more or less traditional something, I'm not sure just how it was put, but the thrust that I took from it was that they weren't what someone would think of was typical blacks or typical browns. That may be too broad a brush to paint it with, but was that the thrust that you took?

A No. As I understood Mr. Gladden's question, it referred to whether or not these people in socio-economic terms, particularly economic terms were like the great overwhelming majority of their fellow ethnic group members in the census track we've been talking about. And Mr. Webber as I understand it is a very successful businessman. And Mr.Barrientos is a very active civic and governmental consultant.

Q Well, is that a bad thing? Would you say to the

Mexican-Americans or to the Blacks that they shouldn't have that kind of candidates out in front, that they should have some other kind?

A Well no, Mr. York. I would not render a judgment on what these communities, what people these communities would select. If they decided to select a white person that's the communities prerogative.

Q Well, is there any significant at all to the fact that Mr. Webber or Mr. Barrientos were different in some respects than a great number of their fellow blacks or fellow Mexican-Americans?

A I think the only significance is that -- well, as I said in my testimony Mr. York I did not do any kind of survey research on this. But the significance is that so-called anglosized minority group members are those which come closer to meeting the white majority points of view. And I think this then demonstrates, at least to me it does, what's involved in the prejudicial aspects of voting in a multi-member district.

Q Well, what about Mr. Paul Ragsdale, the distinguished representative from Dallas? Would you put him in the same general catagory as Mr. Barrientos and Mr. Webber in terms of being a bright sort of successful articulate guy who might not be like everybody else in the black or brown community?

A Alike in what sense? I don't know Mr. Ragsdale's

income. I don't know a number of things about his biology to allow me to answer that question.

Q When you get down to talking about those kinds of issues, about Mr. Webber and Mr. Barrientos why they won or why they lost by one or two percentage points, that's just getting into the realm of just sheer speculation, isn't it.

A I offered my opinion on it. I don't have any studies in those particular areas.

MR. YORK: Thank you, sir.

CROSS EXAMINATION,

By Mr. Korbel:

Q Just a couple of questions, Your Honor. George Korbel representing the Plaintiffs Moreno, et al. Dr. Cotrell, I think there some confusion. Do you have some prior knowledge of Hidalgo County because of some other litigation you've been involved in concerning Hidalgo County?

A That's true. I was involved in litigation concerning the degree of Spanish influence, Mexican-American influence, Spanish language and so on in Hidalgo County in the so-called Trujillo case.

Q And that was this year, is that correct?

A Yes, Sir.

Q So, you feel you didn't have to go to Hidalgo County to find out all of these things about the elections?

A That's true.

Q Dr. Cotrell, one more question. In the trial of the Graves case, you termed Bexar County, the candidate selection process as being anarchaic. With the exception of Tarrant County, would you so characterize all of the counties which we have before the Court today?

A I think I responded to one of the Judges questions earlier which suggested that there are visible endorsing groups in Jefferson and Tarrant County. And I did characterize the rest of the counties like San Antonio.

MR. KORBEL: Thank you, Your Honor. That's all we have.

CROSS EXAMINATION,

By Mr. George:

Q I have one or two brief questions. Doctor, let me ask you something that is not very well developed here. It is your opinion that Galveston County does not operate -- the multi-member district in Galveston County does not operate per se to prevent the black minority from having a serious participation in the political process for legislative office, in that correct?

A That's correct.

Q Have blacks ever elected; that is, has a black person ever been elected to the legislative office in Galveston County?

A No.

Q Of course it's not simply success in running for office that you are talking about. It is participation.

A That's true.

Q Okay. Is Galveston County, particularly Galveston Island a largely segregated living community, that the people live segregated by race groups or are they integrated?

A They have a much higher degree of integration in Galveston, on Galveston Island as it were --

Q Than any of the other counties?

A Yes.

Q Have there ever been to the best of your knowledge black and white local labor unions segregated local unions in Galveston County?

A To my knowledge, no.

Q And you haven't asked about that or investigated that?

A No.

Q In Galveston County, did your investigation disclose whether or not black leaders exercised veto or at least very serious input upon who was supported by labor and who was going to have a serious chance of being the democratic nominee?

A No, they are not.

Q Do blacks exercise some veto right over --

A Particularly, the black leadership is active. That's

the way I characterize it. They feel that their needs are being responded to.

Q Right. And when Representative Harris or someone seeks --

A Representative Harris testified to that.

Q Particularly this one that has been gerrymandered out, the people that live in that community --

A Census track 1219 he feels that they ought to be integrated.

Q The people that live there are black and they have in the past according to your investigation, I understand, summarizing what you have said, exercised some kind of serious control over the democratic party in Galveston County, serious control, input in the democratic party in Galveston County.

A Yes.

MR. GEORGE: That's all I have.

JUDGE GOLDBERG: Mr. York, anything else?

MR. YORK: I have just one other question, Your Honor.

RECROSS EXAMINATION,

By Mr. York:

Q Dr. Cotrell, have you, in regard to Galveston County and on the question of putting Track 1219 back into Galveston County, have you done any studies of what that would do to the

districts that 1219 is now in.

A No, I have not.

Q Or how that would affect the counties next to those counties?

MR. RICHARDS: We have and Representative Harris actually has done some that we will put in the brief.

MR. YORK: That's all we have. Thank you very much.

JUDGE GOLDBERG: I want to ask you one question.

EXAMINATION,

By Judge Goldberg:

Q The word polarization has been hurled about in this courtroom pretty wildly by all of us, particularly including myself perhaps. I want to see if I can understand you. Not all blacks or all Mexican-Americans suffer the same darts and pangs of discrimination as others do. You would agree with that?

A Yes, I would.

Q When you are speaking of the polarization that operates to deny the blacks and the Mexican-Americans access to the political process, I take it that you are thinking of those blacks and those Mexican-Americans who are subject to these darts and pangs of discrimination and who do not get any legislative input to help or alleviate those problems,

is that correct?

A That's correct except at the candidate level, your honor. As we have seen here in the so-called Barrientos race and the Webber race, blacks and Mexican-Americans who are better off socially, economically or both, not like the great number of their coherts, suffer the same kind of discrimination in terms of attempts to be elected to office.

Q The polarization of the white community against, vis-a-vis, other communities is pure race. They wouldn't vote for a Barrientos because of their race irrespective of their socio-economic level.

A I have to reach that conclusion.

Q Well, that's what I want to know. You did reach that conclusion?

A Yes.

Q Because I think it is very important to this case from your point of view. I want to know what you think about this.

A It is intregal. The confusion, Your Honor, of race and class, am I making myself understood?

Q Yes.

A The reason that you would look at it, "race" is because that's what has been used and that is the history of the State. That's why you would single out and look at race as the issue. That's what the evidence suggests in this

case. That is the basis of the conclusion.

JUDGE GOLDBERG: Thank you. Anything further?

MR. YORK: We have nothing, Your Honor.

MR. GEORGE: No questions.

JUDGE GOLDBERG: What about the Plaintiff Intervenors, et al, Republican Party if you are here?

MR. GEORGE: At least the Republicans rest to the extent that they are able to rest.

JUDGE GOLDBERG: What about the rest of you people? Have you rested over there? Has everybody rested on their oars?

MR. BONNER: If the Court please, we have one minor housekeeping point to take up at this time on the matter of attorney's fees. We have agreed upon a stipulation with the Attorney General's office as to the hours and services performed by the attorneys in the Gaskin case. Of course the Attorney General reserves his right to challenge any award of attorney's fees, but there is a stipulation as to time and services, and we would just like to enter that in the record.

JUDGE WOOD: Well, have you agreed on the amount of attorney's fees if you are entitled to recover them in this type of case?

MR. BONNER: Yes sir.

JUDGE WOOD: How much are they? Or have you

agreed on a formula?

MR. YORK: We have agreed on an amount and they can either state the amount or offer the exhibit or however you wish.

JUDGE WOOD: If it's in the exhibit, we would rather have the exhibit.

MR. BONNER: It's Gaskin's Exhibit 2.

JUDGE JUSTICE: It will be received in evidence.

MR. KORBEL: One housekeeping function as far as we are concerned. Are our depositions in evidence or so we have to mark those with Exhibit markers? I want to make sure that the exhibits that are attached to the depositions and the depositions are in evidence.

JUDGE GOLDBERG: You'll have to ask the Clerk, but the depositions are supposed to have been on file.

MR. KORBEL: Yes, they are all filed.

JUDGE GOLDBERG: Were the exhibits filed?

MR. KORBEL: Yes, sir. The exhibits that are attached to the depositions are --

JUDGE GOLDBERG: They are all in evidence.

MR. KORBEL: Thank you, Your Honor.

MR. GLADDEN: Two housekeeping chores, Your Honor. Number one, the Attorney General's Office and I have agreed to stipulate that since Mr. Collins testified about attorney's fees, that he testified up to that point, that

since that time I have spent two and a half days in Court and Mr. Collins has spent one half a day. The Attorney General wanted me to mention that most of that time he was holding up the map rather than being a lawyer.

The other thing is the Attorney General did reserve the right to file objections to the depositions. He has advised me that he has no objection to Plaintiff's Escalante's Exhibits 23, 24 and 25.

JUDGE GOLDBERG: Thank you.

MR. CRAWFORD: Your Honor, we also have an exhibit we would like to get in. It is a stipulation with the Attorney General's office. We would like to have it marked Chapman's Exhibit Number 1.

JUDGE WOOD: Is that in reference to Attorney's fees?

MR. CRAWFORD: It is, Your Honor.

MR. YORK: That exhibit doesn't show it, but it's been signed by our office and for the record we do stipulate that that's the appropriate amount, whatever exhibit number that is.

JUDGE WOOD: If they are entitled to recover in this type of case, that's the amount of attorney's fees you stipulate that they are entitled to recover?

MR. YORK: Yes, sir.

MR. RICHARDS: MALDEF and I and Mr. George would

like the right to present at some later point if appropriate and exhibit as to our time and the entitlement to attorney's fees should the Court deem that appropriate, that that would be permitted.

JUDGE GOLDBERG: You have not typed up this stipulation with the Attorney General?

MR. RICHARDS: I guess we've just been too busy and haven't done so yet, but we can reach a stipulation I presume. I would just like to supplement it with the --

JUDGE GOLDBERG: Well, let's leave it this way, you try to stipulate if you can, file it and let us know that you have it. If you can't do it, why --

MR. RICHARDS: Surely. I'm sure we can stipulate.

MR. GEORGE: The three original parties that have been up and down twice in this matter, all of us have contended and pled that for all of the proceedings we are entitled to attorney's fees. And as a result, there will be times in prior proceedings --

JUDGE GOLDBERG: Try to do that by stipulation.

MR. GEORGE: We will.

JUDGE GOLDBERG: Do you have anything else?

MR. KORBEL: Nothing else, Your Honor.

MR. YORK: We would have a particular objection to the Republican Party being characterized as a private Attorney General in this litigation.

MR. RICHARDS: Your Honor, I wanted to be certain I had offered and they have been received, the depositions with the exhibits attached, Cleveland Nisby, William Oliver, Robert Gilbert. And we too rely upon the deposition of Tom Moore from Waco. And if I could, could I just say something for the record. I don't want anybody to misunderstand when I responded to the Attorney General's question a moment ago about Tom Moore. I grew up in Waco and I consider Tom to be one of the great men of our time. I didn't want by my conduct to imply in any way any disrespect for him whatsoever. So, I thought if it sounded as if I was somehow doing that, I wanted to make it clear that I wouldn't ever have done that.

JUDGE GOLDBERG: I think the Court would be unanimous in saying you were showing no disrespect. Now, where are we, Mr. York? Are you ready for your first witness?

MR. YORK: I think we are, Your Honor. Mr. Black I believe will put this witness on.

MR. BLACK: I want to call Mr. Frank Wright.

FRANK L. WRIGHT,

called as a witness, was duly sworn and testified as follows:

DIRECT EXAMINATION,

By Mr. Black:

Q State your name, please sir, for the Court.

A Frank L. Wright.

Q And how do you spell that last name?

A W-r-i-g-h-t.

Q Where do you reside?

A 1101 Meridan Lane here in Austin.

Q And how long have you resided in Austin?

A 16-and-a-half years.

Q What have you been doing during that time, Mr. Wright?

A For the first 13 or so of those years, I was the Executive Secretary of the University of Texas YMCA. The last four-and-a-half years I've been a representative with Investors Diversified Services, IDS.

Q Would you characterize yourself as active in politics in Travis County?

A Yes, I think I and others would characterize myself as that.

Q Would you tell the Court as completely and as briefly as you can what you have been doing in politics since you came to Travis County.

A My interest in politics every since I've been here has been in trying to activate what I call grass roots political activity, people talking to people in terms of their political concerns and trying to implement that concern through the elected officials at all levels of government.

Therefore, in my own precinct where I began, I have worked out a very effective, so it's regarded by others anyway, political organization. And in recent years I've been trying to spread that doctrine to other precincts in Travis County so that more and more the grass roots people have a true expression of themselves in the political scene.

Q Are you organized under any name? Do you have a name?

A I myself -- of course the first organization is my own precinct. And then several of those precincts joined together into the West Austin Democrats. And we now have succeeded in having four or five other geographical Democratic Political Clubs organized throughout Travis County.

I served as Chairman of the West Austin Democrats and I am also the convenor in the leadership of all of the geographical special interest Democratic Clubs.

Q All right, where are these other Democratic Clubs located?

A We now work with a Northeast Austin, Northwest Austin and a South Austin Democratic Club as well as the West Austin Democratic Club. Also with the student action committee that works in the student and central area of Austin. And a rather loose group, sometimes talked about as the Chicano Caucas, a number of

Latin American leaders who have precincts that are predominately Latin American.

Q All right. Mr. Wright, how would you characterize yourself on the political spectrum? By that, I mean are you right wing, left wing, liberal, conservative, or how would you characterize yourself if you can do that?

A I have certain objections to any such characterization, but other people would characterize me on the liberal side I'm sure.

Q And you have tended to support the candidates in Travis County and state wide and elsewhere that are known generally as liberals as opposed to conservative candidates?

A Yes.

Q Is that more or less true of your organization as a whole?

A Yes. We like to talk about it in terms of being orientated toward the interests of all of the people. And that usually turns out to be labor liberal by other people.

Q All right, sir. I believe you told me you were people oriented or something of that kind?

A That's the way we regard ourselves, yes.

Q All right. Now, in the course of your political activity, and I guess this takes up a great deal of your time, your off time when you are not working, is that right?

A Yes, too much. Yes.

Q During the course of this, do you do any work with the black in Travis County?

A Yes, I do.

Q And do you work with them in voter registration and political campaigns and that sort of thing?

A Yes. In various aspects, in many divisions that exist in Travis County in the black community. I work with various aspects of it in political campaigns in the Democratic party, and in efforts to get the organization more alive and going in the black community as well as the rest of Travis County.

Q How would you characterize the activity, participation, interest and awareness of the black in this community, particularly with reference to the STate Legislative races?

A Well, I would say that the activities and interest of the black community is very seriously divided and has been for some time. I believe that there are indications of increased activity in the black community, but it still finds itself unable to express itself with much incisiveness because there is no singular leadership and no coalition of interests. Instead, they have some eight or nine different political groups, each of which pretends to represent the real important part of the black community.

Q Well, do the blacks work with you fairly well when you are working in political races, legislative races and other political races, apart from that?

A Well, it's hard to talk apart from that when you

have such division and bifurcation within the community. That in itself makes it very difficult to work with them. But I certainly make efforts to do so and have a response on the part of the others to work in that direction.

Q Well, you wouldn't characterize the blacks in this community as indifferent to the State Legislature, would you?

A No, not indifferent to it.

Q All right. Now, what about the Mexican-Americans? Have you worked with their leaders and with them in this community?

A Yes.

Q Would your answer be roughly the same about them or are they different in your observations?

A Roughly the same, except that the Mexican-American community in Travis County has moved further and faster than the black community in beginning to ascert itself in new leadership instead of staying intransigent within the traditional leadership, the leadership that for many years exerted itself in the community simply by the kind of privileges or invitations for chances to attend conventions that were handed out by political people to them?

Q Getting into that just a little bit more and without going into the details about the black and mexican-American candidates for office in this county, I think we can agree there have been very few such candidates, particularly for the

state legislature, do you have an opinion as to the reason for that, for the shortage of black and Mexican-American candidates for the State Legislature?

A Yes, I think tbat there are at least two reasons. One is that the community itself, either of the communities, the Mexican-American or the black, and I'm speaking really in general about both, have remained so divided and up in pieces that they did not tend to think of exerting themselves toward candidacy.

And secondly, because at least up until the most recent years, the titular leadership of either of those communities found their prestige, their recognition based upon the kind of favors that they themselves could get from the predominate established political scene. And therefore, they were not really interested nor encouraging of self-ascertion within their own ethnic community.

Q I believe you say this situation is beginning to change or is changing?

A I think that situation is changing.

Q All right, sir. Now, in your organization and the ones that are affiliated with you, do you have slates of candidates or do you indorse candidates or in elections do you take a stand on candidates?

A Yes, we do take stands on candidates, and that is one of our major functions,at least organizing to be able to

act and then making group decisions as to the direction in which we want to act which means indorsing candidates as a second step.

Q All right. Do you go out and seek candidates to run on your slate and then form a slate, or do you wait until all of the people have filed without any reference to you and then decide which one of them you want to support? Or how does that go?

A Our history has been the latter. That is, waiting until there are candidates and then endorsing the better among those candidates. However, in the last couple of years, there has been some tendency toward doing the other, that is, seeking out candidates because we sometimes find ourselves in the position of remembering a cartoon where the fellow had just gotten to be 21, now he would be 18, he had just gotten to be 21 and he looked at the ballot and said "Now I can vote, but there isn't anybody to vote for." And we sometimes find ourself in that position.

So, we are seeking to find candidates and encourage them to run. And the fact that we are organized and can deliver several hundred workers in at least a third of the precincts in Travis County means that we can seek candidates and candidates may also seek us.

Q All right. When you have decided on what candidates you are going to support, do you go out and contact the bl

and Mexican-American leaders and ask them to support these same candidates? Do you try to work with them in elections?

A Yes, to the extent of what any group like my own, the West Austin Democratic Group or any other group has done is shared through this leadership coordination effort with other groups, and any group can go it's own way, but certainly we recognize real value in the community and therefore there is considerable effort to set down and agree on a common cause wherever we can find it.

Q All right. Now, you were not in the Courtroom when Mr. Charles Miles testified, were you?

A I wasn't. I'm sorry.

Q Well, he named a number of black leaders that he said the white community was not even aware of. Of course I've asked you about these gentlemen that he named. One is Doctor Bay and another, a Doctor Undee, both of the Houston Tillotson University.

A I know Doctor Bay. I'm not sure I know the other gentleman.

Q And another one is George Walker who is a barber. And another is Ray Davis a fireman. Now, in your work in political races, are you aware of these individuals all except Doctor Undee?

A Yes, I am. But I certainly would need to say that my acquaintance in the black community is somewhat different

than the normal establishment acquaintance. I am people oriented, and so it's the little people that I get to know.

Q But regardless of that, you are part of the white community and you do recognize at least three of these people as leaders in the black community and have worked with them?

A Yes, and I can probably name a number more.

Q All right, sir. Now, of course you remember some of the races in which both blacks and Mexican-Americans have run for office in Travis County. Do you remember Mrs. Willhemina Delco running for the School Board?

A I certainly do.

Q Did your organization support her?

A We did.

Q Did you work for her?

A Yes.

Q And do you remember Gus Garcia running for the School Board?

A Certainly.

Q Is that the same? Did you work and support him?

A We indorsed and worked with Gus Garcia along with other candidates in the race.

Q Well, not candidates against him?

A No. No. But I mean others in that same race, and we are proud of what they are doing now on the School Board.

Q What about Burrell Hancox, the black who is serving

on the city Council? Did you indorse and support him?

A. We indorsed and supported Burrell Hancox the first time he ran. The second time he ran, we didn't.

Q. And did you support Mr. Barrientos when he ran for the Legislature?

A. We did.

Q. And did you work for him?

A. We certainly did.

Q. What about the race the first primary that was between Mr. Ruiz and Mr. Larry Bales? What stand did your organization take on that race?

A. In the Ruiz-Bales race which was before the run-off of course only one of them made the run-off, we were placed in a position in which most of our groups would make an indorsement by a very small majority which is of no use in these kinds of groups. You have to have a large majority and that puts the workers in the field. Our indorsement is not worth much except where it puts workers in the field and in the race you are speaking of, the Ruiz-Bales, race, both candidates appealed to us in large measure, and it was impossible for us to make the kind of indorsement that really would have been effective and put workers into the field.

Q. All right, sir. Now, in your ideas and plans to perhaps go out and actively solicit candidates to run

rather than waiting for candidates to file and then support them, I believe you did testify you had plans to that effect?

A. Yes, and are doing it in current races a bit.

Q. Do you think it probable and likely that you will approach blacks and Mexican-Americans to run in county wide races?

A. Yes, I'm sure that we will. In fact, one of our particular roles is surely to make it more possible for such a candidate, women, included, women, Mexican-Americans, blacks to be able to run advantageously and successfully in Travis County. And therefore we will look particularly for able people in those communities which heretofore have largely been excluded from active participation as candidates.

Q. All right. Would you say based upon your observation of the political tenor of Travis County that is is impossible for a black or a Mexican American to be elected to the Legislature in our at-large or multi-member districts?

A. No. It's no longer impossible. The thing which I believe that an analysis will back this up, that has made that no longer true, I think it was once true, it is no longer true because of the very organization I'm speaking about which is now able to put, on behalf of a good candidate from the black or Mexican-American community, a large working force in the Anglo

community. That is the reason that I can no longer say that it is impossible for such a candidate to win a legislative race in Travis County.

Of course in the Barrientos instance, there was a thousand vote difference. And contrary to some other testimony we have heard today, I think we could have made that thousand votes up. Particularly if the opponent had not raised some racial issues and other things in the last two days of that campaign, we could have probably won that.

Q. He certainly did well for a relative -- he was a relative political unknown when he ran, was he not?

A. Yes, he was, although he knew the people.

Q. And of course Mr. Foreman has the -- Have you ever heard of the Schlessinger Report on incumbents? Have you read that?

A. Yes.

Q. Mr. Foreman had that going for him, whatever it was, did he not?

A. Yes, sir, he sure did.

Q. All right. As a matter of fact, you have heard some of the characterization of the testimony of Tom Moore by deposition in this case. It certainly was not long ago that it could have been said in Travis County that it was virtually impossible for a liberal to be elected to a public office in Travis County, would you agree with that?

A. Probably so.

MR. BLACK: Thank you very much, Mr. Wright.

CROSS EXAMINATION

By Mr. Richards:

Q. Mr. Wright, do you know Stuart Long?

A. Yes, I certainly do.

Q. Stuart testified here earlier in the case it was his view that historically, and I'm looking back behind 1972, that sort of a loose business lobby sort of organization had dominated legislative politics as to the legislative races in Travis County. Would you agree with that?

A. Prior to --

Q. 1972.

A. 1972. I might need to go back just a little longer than that, but certainly not very far. From '70 back, I would agree with that.

Q. I take it that you don't consider yourself a part of that group, that business lobby group that had dominated the scene in the '60s.

A. No. sir, I do not.

Q. All right. We have actually talked about this and I suppose you've already answered it, is it your opinion that the racist campaign tactics that were employed by the incumbent, Wilson Foreman, were instrumental in the defeat

of Gonzales Barrientos in the 1972 campaign.

A. Yes, I do.

Q. And do you recall other instances -- By the way, Wilson Foreman has been a legislator from this County for how long? Or off and on --

A. Off and on for about 18 years. He had a little time when he wasn't in.

Q. All right. Larry Bales testified that his incumbent opponent used what he considered to be racist campaign tactics in 1972. Do you recall that campaign?

A. Yes.

Q. Would you concur that that was in part the campaign run by incumbent Harold Davis in 1972 against Larry Bales?

A. Would I agree what about it?

Q. That in fact incumbent Harold Davis attempted to rely on racist type of appeals in seeking to defeat Larry Bales, specifically, trying to link him with the black panthers if you recall.

A. Yes. Of course where race is a handy thing, it's easier to tie into. It is the kind of campaign effort that's used, anything you can find to try to persuade the establishment business orientation that this man is a great threat to you or something like that, and race is a part of it.

Q. I'm not sure I understand your testimony as to the role, for example the black community has played in the

legislative politics of this county. Let's look at '72 back, first. Charles Miles testified as he viewed it, the black community of Austin had little or no role to play in the legislative politics in Travis County in recent times. Would you agree with that?

A. In the legislative politics?

Q. In determining who was going to run for office and who was going to be elected to office and having a significant input in terms of once elected what those office holders would do, what their program would be.

A. I think that would be a true statement.

Q. What is your view as to the desireability of single member legislative districts in Travis County?

A. Well, I think that single member districts would enhance the effort of people talking with people because you could concentrate your efforts into a smaller community. And as I have said, I believe in people talking to people as the way we can overcome, make our democracy overcome the problems and make our democracy work. I would feel that a smaller area in which to work, a smaller population would benefit that effort.

Q. Can you in that context agree that single member districts would at least give the black community a better focus and more opportunity to have input into the legislative process in this county, would be desirable?

A. Yes, I do think it would.

MR. RICHARDS: That's all. That's all I have.

MR. KORBEL: I have nothing further, Your Honor.

JUDGE GOLDBERG: Anyone else at this table? Mr. George?

MR. GEORGE: No questions, Your Honor.

MR. GLADDEN: Nothing, Your Honor.

MR. BLACK: We have no further questions. We call Representative DeWitt Hale, Your Honor. May it please the Court, I have to go and appear as a witness in a non-constitutional matter in State Court and then some other things. May I be excused?

JUDGE GOLDBERG: You may be excused and we appreciate your presence.

MR. BLACK: Since I probably won't be back before the end of the proceedings, I want to thank all of you for your courtesy.

DEWITT HALE,

called as a witness, was duly sworn and testified as follows:

DIRECT EXAMINATION,

By Mr. York:

Q. Will you give us your name, please sir?

A. DeWitt Hale.

Q. Where do you live Mr. Hale?

A. Corpus Christi, Texas.

Q. What business or profession do you follow?

A. I am a lawyer.

Q. How long have you practiced law in that area?

A. In that area? Since 1946.

Q. Have you been active in politics both in public office and otherwise since 1946.

A. Yes, sir, but not everytime as a candidate.

Q. Have you served in an elective office from Corpus Christi?

A. Yes, sir.

MR. KORBEL: Excuse me, Your Honor. I of all people hate to object to taking a lot of time here, but this man was brought into a deposition. His deposition is on file. And I wonder the purpose behind calling this witness at this point.

MR. WALKER: We advised Counsel yesterday that this deposition or this witnesses testimony would replace the testimony of Mr. Salem who is the other Representative from Corpus Christi. We had always intended to call one of the Representatives as a live witness.

MR. KORBEL: Are you going into matters apart

from the deposition or are you going to cover the same matters?

MR. YORK: Both. And I might point out that Mr. Korbel did not attend the deposition and it was objected to at the time that he had not had an opportunity to cross examine this witness.

MR. KORBEL: I enter no objection as to that.

MR. GEORGE: Just as to the repetition, we would object as to the repetition.

JUDGE GOLDBERG: We have heard a lot of repetition and we can stand a little more. Go ahead.

Q. (By Mr. York:) In a brief fashion if you would, Mr. Hale, tell the Court what elective offices you have held.

A. I have held only one and that's of a State Representative.

Q. Did you first run in 1952?

A. Yes, sir.

Q. Did you serve continuously until I believe 1962?

A. Yes, sir. I served from January 1953 through December 1962. I ran for the senate in 1962 and fell a few votes short. So I was out for two years. Then I ran for Representative again in 1964 and was elected and I have held it since that time, starting in January 1965 to the present time.

Q. At this time and during the last session did you

serve as Committee Chairman or hold any other significant post in the 63rd Legislature?

A. I was Chairman of the Judiciary committee, yes, sir, for the fourth time.

Q. All right. Is it possible and has it been possible in Nueces County since you've been running for public office there for a candidate to win without significant support from the Mexican-American community?

A. Well, it's mathematically possible, yes. But as a practical political matter, no. You cannot win without substantial support.

Q. Have you always campaigned and sought the support of the Mexican-American community?

A. I have had a much larger percentage of the Mexican-American vote in every one of my contested races than I have of the Anglo vote.

Q. This has already been mentioned just coincidently in the case, but have you been made an honorary life time member of the LULAC?

A. Yes, sir. At one of their national conventions they made Representative Malcolm McGregor of El Paso, who was then a State Representative from El Paso and I honorary life members because of the legislative work we had done in setting up a program for pre-school instruction in English for non-English speaking students.

It was a program that was originally dreamed up by Mr. Felix Tijerina of Houston who at that time was president of the LULACs. And we put it through the Legislature and as a result of that they honored us at their National Convention by making us honorary life members. It did not carry any other emolument I might say.

Q. Have you sponsored or worked on or been responsible for the passage of other legislation which might be thought of as being legislation of particular importance to the brown or black community?

A. I have sponsored a great deal of legislation that is of particular interest in those areas and have worked for a great many pieces of legislation which I did not personally sponsor.

Q. Did you take any stand on school financing in Texas this last legislative session?

A. I sponsored the bill to try to comply with the holding of the Federal Court in the Rodriquez case involving the Edgewood Independent School District in San Antonio. That was known as House Bill 946. And we had a very bitter floor fight on that and we finally passed it in the House. But it was emasculated in the Senate. And as a result, it was never finally passed.
And that's not the first time I've worked on that. I was the State Vice-Chairman of a state wide committee that

became known as the Hale-Aiken Committee back about 15 years ago. We saw that problem and recommended changes at that time. The Governor's Committee on Public School Education about 10 years later appointed by Governor Connolly made the same recommdation. Mr. Leon Jaworski was Chairman of the Governor's Committee. And at his request I sponsored all of their recommendations to the legislature. Again, it was designed to try to equalize educational opportunities for all children in Texas. And I'm proud of the work that I put into that.

Q. Where have you --

A. We are going to pass it here in the next session of the legislature.

Q. Do you think there is any prospect for a special session?

A. That is, if I'm a member at the next session.

Q. Where did you stand on the repeal of the poll tax at the time when that was an issue in this state?

A. I have advocated the poll tax every since I've been in public office. And I'm proud to say that I was a cosponsor of the repeal resolution in the Texas Legislature. Mr. Travis Peeler also from Nueces County, who was my colleague at that time, was the lead sponsor on that bill.

Q. Where have you stood on permanent voter registration?

A. It was a bill accompanying the repeal of the poll

tax. We have had that bill in the legislature for several times. One of the biggest problems we have in my County, and I can only speak for my area of the state, but our biggest problem with the minority groups down there is getting them qualified to vote. We don't have near the problem of getting them to the polls on election day as we do getting them qualified.

And of course as long as there was a poll tax, the biggest bug-a-boo was the $1.75 which we had to put for everyone. Now it's registration. So what we badly needed was a permanent registration so that once they are on the voter list, if they vote every year then they are automatically re-registered. And that's what we've been striving for.

Q. What did you have to do, if anything, with the rider on the recent appropriations bill, I think this session, that purported to prohibit discriminatory employment in the state?

A. I was one of several who met on that, worked on it and lobbyed it into the legislature and got it on as a rider.

Q. Have you been active in the area of licensing and so on as far as proprietary schools in the state are concerned?

A. Yes, that was in response to a glaring need in our community where a lot of these trade schools, private trade schools were coming in and getting the minority people to

come in and register, pay them $500, $600, or $1,000 to become an expert welder or an expert plumber and then about a week later the school closes down and the fellow skips out an they were out all of this money which usually they had borrowed from some loan company.

So that to solve that problem, we initiated and passed this bill at the last session which I sponsored in the House and Senator Joe Christie from El Paso sponsored in the Senate known as the Proprietary School Act and it now requires all of these trade schools to be licensed through the Texas Education Agency. They have to post a bond. and I think we've closed the barn door now so that there will be no more horses stolen in this area.

Q. How would you characterize polarization or the lack of polarization in the races in Nueces County from which people with Anglo surnames like Hale get elected, and then also looking at the area where people like Mr. Soliz, the District Clerk, gets elected county wide, or judge Garza, County Judge, get elected county wide. Do Anglo voters in your county, in your district, tend to vote almost exclusively for Anglos and the same true for Mexican-Americans, or what is the situation?

A. No,sir. I heard one of the other witnesses here, I believe the Doctor here who is making a study all over the state on these things, I heard him testify to that and I think

he is totally inaccurate as far as Nueces County is concerned. There has absolutely been no polarization of the voting patterns in our county. For instance I carry the areas which are predominately Mexican-American and black, I carry them by bigger percentages than I do the areas that are predominately Anglo.

You can take a candidate like Tony Bornillo for instance, Tony Bornillo was elected and he carried the Anglo precincts real heavy in certain areas. Oscar Soliz who is our district clerk defeated an incumbent Anglo and he did it not by -- he carried the Mexican vote solid too, but he also carried a heavy Anglo vote.

I don't think you can find a pattern in our county on polarization. There has been no polarization. There has been really no racial problems in that regard.

Q. All right. Now, would that be both before and after the beginning of the school problems that have been discussed in this Court.

A. Of course the school problem, the school lawsuit down there over our schools certainly hasn't been aided and abetted our brotherhood down there. It has had it's bad effects regretably. And unfortunately everybody that I know of, certainly everybody in the political spectrum down there wants the same objective. And yet the lawsuit has made it more difficult for us to obtain that objective.

For example, I read Mr. Montemayor's deposition here, you showed me a copy of it, and I was curious to see what he said about that because he was the moving force behind this school lawsuit. And I noticed he took the same position that I did, and that is that nobody wants to bus the school children. What we want is equal educational opportunities for everybody, black, white, brown, yellow, pink, whatever the color the skin might be, whatever the ethnic background might be, whatever the religious affilitation might be we would like to have them have the same educational opportunities. But, we do like the neighborhood school concept. I have my youngest daughter still in elementary school and she goes to a school that's close enough to where we live that she can walk back and forth. And I like that. I would hate to see her bused clear across town. I could care less who goes to that school. It's a matter of convenience to have a school close to your home.

Q. Do you know of any community in these United States where busing has become an issue where it has been just an unnoticed issue that didn't cause a certain degree of controversy in the area?

A. Well, I don't know how to answer that question, Counsel. I'm not familiar with all of the communities in the United States.

Q. Doctor Garcia testified, Doctor Hector Garcia from Corpus Christi has testified in his deposition, page 38, that, "If you ask me, I would rather say do you think if the Supreme Court orders transportation and I'm not talking about forced busing, but I am talking about free transportation to go from one school to the other, I would say that all Anglo legislators except Sissy Farenthold would have voted against it. They would have voted against it."

How would you personally feel about that issue?

A. First, let me say this: Doctor Hector Garcia is a great man in my opinion. He is a friend of mine, he has supported me in every race I have ever made. I hate to be in a position of disagreeing with him, but that statement is an incorrect evaluation on his part. Our delegation has been most responsive to every need of that community. I think we would have voted and worked solidly behind any transportation financing that was necessary if it had been ruled that it was necessary to transport the children. We would have done that. I have sponsored practically every significant piece of school legislation that has been passed in Texas in the House in the last 20 years, and several of those have been massive increases in the state funds that were going into the area of school transportation.

Q. Let me ask you one or two questions and this sort of relates to schools, but you had told me about an incident

maybe going back into the '50s in the Robstown schools where there was a discussion about whether there should be a place system or an at-large system in the election of your school trustees.

A. Yes, sir, I did tell you about that. During one session of the legislature, an attorney for the Robstown Independent School District called me on the phone and said that the board had decided that they would like to go to a place system for selecting the trustees in their Robstown Independent School District. And would I sponsor a bill to do that. I said sure, send it on up.
He sent the bill up and I introduced it in the House. I don't recall the number of it now, because this has been many years ago. And then I immediately sent out copies of it as I do on nearly all of the legislation I sponsor that has a local impact, I sent copies of it to a number of people in Nueces County and asked them for comments on it. I promptly got a comment by telephone call from Doctor Hector Garcia. He was very much upset about it and he said "DeWitt", he said, "do you know what they are trying to do with this bill?" I said, "No. All I know is they called me and asked me if I would introduce it." He said, "Well, what they are trying to do, they are trying to set up this system so that they can cut us out of the School

Board, so that we can't get anybody on the School Board." We talked about it on the phone for some time. I said, "Well, if that's the intent of it, you don't have to worry about this bill." I called the attorney for the school board back and talked to him a long time about it and found out that that really was what was lurking in the back of their minds on it. I promptly withdrew the bill from the Committee, I killed the bill myself in the Committee.

Q. Did the subject of the Robstown Board of Trustees ever come up again?

A. Yes, it did. Robstown now is heavily weighted in favor of the Mexican-American population, and now the School Board in Robstown -- I don't know, I can't give you the exact figure on it, but it is substantially controlled by the Mexican-American community. Shortly after they obtained a majority on the board, they called me and they wanted me to introduce a bill to put the place system in the Robstown Independent School District. And I told them that I've gone down that railroad track once before and I wasn't going to have anything to do with that bill. I don't know whether they ever got it introduced or not.

Q. On another subject, speaking of Robstown, the representation was made by Dr. Cotrell that Carlos Truan's fairly large majority in 1968, followed by a lesser majority

in 1972 was an indication to Dr. Cotrell that there was a polarization of the vote that had grown in that four year span. Would you comment on that?

A. Yes. I was sitting back there and I heard him make that statement. I don't agree with his conclusion on that at all, and I think he's mistaken. I think he has drawn his conclusion from erroneous facts.

For one thing, the district changed between 1968 and 1972. In 1968, all of us were running at-large over two counties, Cleberg and Nueces County. Carlos Truan was born in Cleberg County, grew up there, went through Texas A & I University there and had a tremendous following in Cleberg County. He carried that county almost unanimously, Anglo, Mexican-American, black, everybody. That contributed greatly to his majority in 1968.

Between 1968 and 1972, as a result of redistricting, brought about by Court order and legislative action, in 1972 we were running in only part of Nueces County. The three of us were running at-large in a part of Nueces County. We had lost Cleberg County and we had lost the northern and western part of Nueces County which was moved up into the Leroy Williams district. So that was one big factor that contributed to the narrowing of the margin there.

Q. Let me stop you at one point there. Mr. Truan is from Robstown, is that right?

A. He was originally from Kingsville.

Q. Where did he live -- Or how did that change in terms of where he lived and where his background was? How did that change affect him, or did it?

A. I don't quite understand your question. He grew up in Kingsville, and then after he got out of college he moved to Corpus. He's been in business in Corpus for many years. But having grown up in Cleberg County, he has a large number of friends and loyal supporters over there.

Q. So that that county was later, by 1972, he didn't run in that county again.

A. He didn't run in that county in 1972, none of us did.

Q. Go ahead.

A. Okay. And of course there were two or three other factors, and none of this is a polarization of the community. If there was any polarization on it, it was on Mr. Truan's race himself. He had become very controversial in two or three areas down there, and I don't know to what extent you want to go into these, but for one thing, just to mention one big controversy that he got into, he got into a controversy with the Bishop of Corpus Christi as a result of his activities in the Farm Workers March. The Bishop was jumping all over Mr. Truan down there, rightly or wrongly, and I don't want to take sides on that particular controversy, but I point the

controversy out to show that Carlos lost lots of votes as a result of his fight with the Bishop.

Q. How do you and Mr. Truan and Mr. Salem work together as a delegation?

A. We have worked very closely together, particularly on local issues. But even on state wide issues, we are normally in pretty close agreement and harmony. Historically we have always had a real closely knit delegation and we keep in close touch with each other and we try to confer on key matters, and hopefully we can resolve our differences among ourselves.

Q. One or two last questions, Mr. Hale. As you know, the issue before this Court is whether or not -- It began with nine multi-member districts and Plaintiffs have now conceded on two of those --

MR. RICHARDS: We don't concede on Galveston County, Your Honor.

Q. (By Mr. York) Leaving the remainder. So that what's left for this Court to decide is whether or not those remaining counties which have a multi-member district situation, whether or not that is constitutional or whether it should be replaced by single-member districts. As you know, the Court I suppose would have the option in any county that it decided to do that of either immediately ordering that that be done or perhaps ordering the legislature to do

it at it's next session. Do you, as a long time member of the House of Representatives, have an opinion on the practical difficulties considering that we have a constitutional convention coming up in this state in January, that a ruling of single member districts in any county of the State would have on the incumbents who would be trying to run again and also at the same time trying to re-write the Constitution of this State.

A. Well, even without the redistricting, we have all been worrying about the problem of having to run for re-election at a time when we are in a constitutional convention here and also trying to rewrite the basic law of this state, and it's not going to be easy.

I would certainly hope the Court would take that very important political fact into account in those areas, if it does in any area order single member districts, hopefully to permit the legislature to do it the next time. I know in reading some of the news reports on this case, and I know on my deposition that one of the Counsel asked me the question, "So, why didn't the legislature do it the last time?" Well, we have conscientiously tried to comply with every Court order in any area, whether it was welfare or whether it was school legislation, whether it was redistricting or whatever it was to the extent that we had definitive guidelines to go by.

Now, the reason we didn't get into the redistricting situation during the last session of the legislature is we did not have those guidelines. We did not know at that time and we still don't know, otherwise we wouldn't be here in this Courtroom today. We still don't know whether multimember districts in Nueces County for example are discriminatory under the Federal Constitution. As I read the Illinois case, I just don't think you can show the pattern of discrimination that Justice White says is necessary to violate the 14th Amendment in Nueces County. So, until we get that guideline, the legislature has made this policy decision that we would prefer multi-member districts in these counties.

Now, if the Court rules and says "Well, you can't have those districts and you've got to go to single member districts", I say to you that we will pass a single member district bill the next time the legislature meets for those areas. We would certainly abide by the Court's decision.

Q. Let's talk just a little about the policy behind the multi-member districts as it has grown up in Texas. Is it your view or do you have a view on whether the multimember scheme as used in Nueces County which you are most familiar with operates to make all three of the members responsive to minority needs? Do you have an opinion as to whether that in your view is better than dividing it up so

that only one need be so responsive? Could you speak to that issue?

A. I would answer that the same way that -- I'll plegiarize my good friend, the District Clerk down there, Oscar Soliz. I talked to Oscar about that one time and he said --

MR RICHARDS: I object to what Mr. Soliz said. If Mr. Soliz comes and testifies, we will cross examine him about it.

JUDGE GOLDBERG: Well, Mr. Richards, we have permitted the witness you offered to say what he found out in his interviews all over this state. I think it would be in the area of policy that we let Mr. Hale tell this. You can cross examine him if you want to gouge what went on. Go ahead.

Q. (By Mr. York:) Let's talk about it as an interview with Mr. Soliz.

A. Counsel, I don't know that you would actually call it an interview. Mr. Soliz is a good friend of mine there and he and I have talked about this problem on many occasions. When it became evident that you wanted me to testify, he is one of those that I talked to about it. I shared the same view that he expressed to me, and that is, that the black community and the Mexican-American community and the other minority groups get far better representation under our multi-

member districts setup that we have now than they could conceivably hope to get in single member districts.

If you break Nueces County into single member districts, you are going to immediately create a situation where now we have three representatives who are dedicated to trying to serve these areas of the community and particularly the black and Latin-American communities. We go out of our way to try to meet their needs and handle their situation. But you give me a little single member district that has practically no Mexican-Americans in it and no black in it, and then I become complete oblivious to the needs of that area because I've got to serve that little ward you have created for me. And whatever it's political complexion is, that's going to have to be my political complexion and my interest in the future.

So, I think that where Dr. Hector Garcia or where Oscar Soliz or any of the other leadership down there, the NAACP leadership, Irving Brown and others who come to me constantly with their problems under a multimember district setup, which I wouldn't necessarily do if I had a little single member district and didn't have to respond to those needs.

Q. Is the multimember district in Nueces County conceived or operated as a purposeful device to further racial

or economic discrimination?

A. Absolutely not. The multimember district first came into being down there in the 1951 reapportionment following the 1950 census. Up until that time, we only had one representative covering three counties down there. We had fought for years trying to get the reapportionment so that we on a population basis could get what we were entitled to.
But it was set up as a matter of state policy, and written into the State Constitution, until it was changed by the Federal Courts, we did not violate County lines. We recognized the County as the historic political boundry in Texas. And in setting up legislative apportionment in the 1951 legislature, we adhered to those county lines. And we continued to adhere to those county lines and use multimember districts and the flotorial district concept in some areas which were permissible at that time as a vehicle for attempting to apportion out the legislature.
here was absolutely no historic background that this system was designed or ever operated with idea of trying to discriminate against anybody. It was designed as an idea of trying to say that if Nueces County is entitled to four Representatives, they get to elect four. If another county is entitled to two, they get to elect two. If a county is too small to have one, then it's combined with other counties

until you get enough population so that you have a representative. And that was the whole theory of it.

The historic background is completely nullified to any thought that it was ever designed for that purpose or deliberated operated for that purpose.

Q. Were all of the rest of the multimember districts in this state, did they have their beginnings in the same way, that is, starting off with the county that had one representative and with the increase in population thereby adding more representatives to that county?

A. No, they didn't start off that way. If you will go back to the first reapportionment under the 1876 constitution, of course you had some counties large enough at that time. But in the first ordnance under that constitution they allotted so many representatives to each county. And there were some counties at that time I think that had as many as three or four. I'm not sure. I don't recall. But that information is available, to you.

Q. And those three or four in 1876 were running at large or multi-member?

A. Yes.

Q. All right. In Nueces County does your Mexican-American and black resident have less opportunity than do the other residents, the Anglo residents, to participate in the political processes and to elect legislators of their

choice?

A. I think they have exactly the same opportunity and the same chance that anyone has. If you will look over the history of our legislative delegation -- in fact, I've gotten over a million miles of humorous comment in speeches I have made here over a four year period at civic clubs where I would needle my colleagues when we would meet together by saying "I know you are all fussing at us about what's going on in the legislature. I want you to look at my delegation and you can understand why." I said, "We've got one Mexican-American, one Arab, one frustrated female and one broken down old lawyer." I said, "What do you expect out of this delegation?"
And that was literally our situation. Mr. Salem in the US Census figure, he is in that other category, he is a Lebanese. He's an Arab, one of the smallest minority groups that we have probably in the county. Mr. Truan is a Mexican-American and an outstanding representative of his people and an outstanding representative. We had Sissy Farenthold who is a woman. We have had one woman in the delegation. We have elected a Republican on two different occasions. We elected Mr. Tony Bornillo on a different occasion. And he beat an Anglo in his run-off when he was elected to the legislature, Mr. Curtis Ford who had served two terms in the House, an Anglo, a former representative.

And he did it with Anglo votes.

So, what I'm trying to point out to you is that throughout our multimember district history we have had a very cosmopolitan and representative group. You couldn't break the county down in any way where you would have a better balance, conservative-liberal. On religious lines, we have had protestants, we have had catholics, we have had every conceivable type of religion. We have had male and female. We have had Mexican-Americans, Anglo-Americans. I just don't think any of those factors enter into it.

If you analyze the races, you will find that the people didn't follow any voting pattern other than on an individual basis they voted for the one they thought would do the best job.

Q. Do you think that's what they ought to do?

A. I think that's what they should do, yes, sir. I don't think that a man ought to be elected because of his race, creed or color. I think he ought to be elected on the basis of what he can do for his constituents and for the State. And I like to think that every election I have won, I have won it on that basis and that basis only.

MR. YORK: Thank you sir.

MR. RICHARDS: I have a couple of questions which are actually outside the scope of direct and they are not really cross. If the Court would permit me just to

identify a couple of people.

JUDGE GOLDBERG: Go ahead.

CROSS EXAMINATION

By Mr. Richards:

Q. Mr. Hale, could you help me here for the record. Identify the following for me as legislators from Jefferson County during 1957. Will Smith, do you know him?

A. Of yes. I know Will. I'm not sure about the year.

Q. Was he at one time a representative from Jefferson County?

A. He was a representative for some 18 or 20 years.

Q. He died last year I believe.

A. He passed away about two or three years ago. A very fine man.

Q. Rufus Kilpatrick?

A. Rufus Kilpatrick was a representative from Jefferson County.

Q. And Mr. Harrington, at one time was Mr. Harrington a legislator?

A. He is a Senator now.

Q. But at one time he was a member of the House of Representatives?

A. Yes, he served in the House at one time, yes, sir.

MR. RICHARDS: Thank you very much.

CROSS EXAMINATION,

By Mr. Korbel:

Q. First of all, would you suspect that a majority of the Mexican-American community in El Paso county are in favor of student transportation to insure integration? Excuse me, I'm sorry, Nueces County.

A. I was going to say I don't know anything about El Paso County. Would you rephrase the question?

Q. Would you say that a majority of the Mexican-American parents in Nueces County are in favor of integrated public education?

A. Integrated public education, yes, sir, I would think that a majority of all areas of our community are in favor of integration of public education. Let me say this about Nueces County, if you will go back and have your expert check it, you will find that all of our systems down there, our school system, our junior college group, our restaurants were all integrated before there was any court order on it. It was done voluntarily. The Delmar College Board of Regents integrated the college on their own. The Chamber of Commerce got behind and worked hand in hand with the Mexican Chamber of Commerce, they worked closely together and had all of the businesses do the same thing. We did it on a voluntary basis with no friction and no strife, no sit-ins, no trouble at all.

It is a cosmopolitan area.

Q. What is the degree of integration in Corpus Christi today? What is the degree of school integration? You have racially identifiable schools, don't you?

A. You have schools and I'm no expert on schools, and I heard some of your testimony here from the school kids, but that's not the fault of the school, Counsel. That's the fault of the housing patterns. Not that the schools are not integrated. And the reason you have some schools that are predominately Mexican-American and you have some that are predominately Anglo-American is because of the housing patterns. And that's being rapidly broken down. If you take a distribution of the races in Nueces County 20 years ago, in 1952, when I first went to the legislature from there and put it side by side with the ones today, you would see a tremendous change because the housing pattern is breaking down rapidly. And as a result, that type of school is breaking down rapidly.

Q. What percent of the students at this school that your daughter attends are black?

A. I have no idea.

Q. Are there some blacks there?

A. I don't know.

Q. What percent are Mexican-Americans?

A. I don't know. I sure don't know. I couldn't give you the percentage in any school in Corpus, Counsel. I'm just

not that familiar with the schools.

Q. Dr. Garcia, and you admit that you respect Dr. Garcia a great deal, testified in response to a question "I would say first that the prejudice and hate felt toward the Mexican-Americans has not been overcome." Would you agree with that?

A. Well, you are talking in degrees. Of course you are taking his statement out of context. I would disagree with that. If he is talking about the situation that prevailed in the 19th century, yes. I think we have completely gotten away from the racial hatreds and so forth that persisted in Texas at that time and persist in some areas of Texas perhaps even today. I don't know. I'm not qualified to speak on that. But I don't think we have the racial hatreds there in Nueces County. No, sir. Again, you can find extremes anywhere, Counsel. I'm sure that you could find some people in Nueces County that wouldn't be caught dead acting like they were friendly toward a Mexican-American or toward a Negro and you could probably find some Negros who feel the same way about the whites. And probably some Mexicans.

But I think you will find that those are the fringe areas, the radical fringe. And I don't think it's the broad center of the political spectrum.

Q. Now, everybody who has appeared here so far, including

yourself, has testified that there is racial polarization in Corpus Christi as a result of the school case. You don't deny that, do you?

A. Well, you need to define your term "polarization". The Judge asked the question about polarization of some witness a minute ago, to be sure he understood it. If you mean that you have driven and divided everybody into two completely opposite camps, no. I certainly don't think that has been the result.

Q. Not everybody, but how many?

A. I think what the result has been, I think that the school kids down there have aggravated the fringe area, the radical fringe on both sides of this thing. And as a result, those are the ones that are tearing their hair and screaming and jumping up and down and marching on down the streets and so forth. And so it's those fringe areas that have been polarized.

Again, I think the big mass of humanity down there of our population feels exactly like I do, that we want integration. We want educational opportunities to be equal for everyone. We simply don't like the idea of having to bus kids clear across town in order to do it. We need to change the housing patterns so that everybody can go to neighborhood schools on an integrated basis.

Q. Let me ask you, isn't it true that Representative

Carlos Truan led the fight in the State House against this resolution which would have put an end to forced student transportation.

A. Well, he was a very active leader. Now, which resolution are you inquiring about?

Q. That was the resolution that set up the Federal Constitutional Convention to pass the Constitutional Amendment against the transportation of students.

A. I don't remember whether he led the fight on it or not. I'm sure he was outspoken and in opposition to it, I'm sure.

Q. How did you stand on that?

A. I probably voted for the amendment in one form or another. We had two or three different versions of that. The one I voted for was one where it said, it provided simply that there would not be mandatory busing in order to achieve --

Q. It would be up to the student to decide whether or not he wanted to go to an integrated school?

A. No. I think we ought to bus them as we have tried to do in House Bill 946 and as the Governor's Committee on Public School Education tried to do, and that's to set up the school system in such a way that we can achieve this equality without going into massive busing, and I think we can do it.

Q. What is the state policy as you see it that underlies the multimember district.

A. What is the State policy on it?

Q. Yes, sir.

A. I think it was a --

Q. What is it now?

A. I think it was a revolt against the evils of the ward system of politics that the 19th century was most famous for. And that is, you carve out a little ward and then each one represents his ward. And then they trade out with each other. They gain things for each little ward there and you fragment the county politically. When you fragment it politically under those circumstances then you fragment it for all purposes, economically and otherwise. And I think it was an attempt to get away from that fragmentation and an attempt to treat the county as a historic political unit and giving some cohesiveness that led to the use of multimember districts.

Q. Representative Hale, when is the next session of the Legislature?

A. The next regular session will convene January 1975. We had an amendment on the ballot this last November to try to get it on an annual session. We badly need to go on an annual session, but the people voted that amendment down.

Q. So, in 1975, is when you are proposing to the Court that you might consider going into single member districts,

is that right?

A. Well, I have a strong feeling that we may have to have a special session here pretty soon if the Governor is animate about cutting the speed limit to 55 miles an hour because while I'm not a great constitutional lawyer, I think it's going to take an act of the legislature to do that. I don't believe the Governor is going to be able to do it without the legislature.

Q. I'm going to refer to Plaintiff's Exhibit 43a, Moreno 43a, Nueces, and specifically I am referring to the precincts that are south of Weber Road. So that there is no question about it, I think Dr. Cotrell's testimony that the precincts south of Weber road --

JUDGE GOLDBERG: Where is Weber Road?

MR. KORBEL: Weber Road runs right here, Your Honor.

Q. (By Mr. Korbel:) He testified that those precincts south of Weber Road would lend some credence to the idea that there is polarization in Corpus Christi. Now, for the purpose of the record, isn't it true that you home precinct is precinct number 65?

A. I believe that's right. I would have to check my registration to see, but I think that's right.

Q. And if we were to draw single member district, or three single member districts for Nueces County multi-

member district, in order to make one district starting right on Weber Road and then running south on Saratoga Boulevard which includes 75,000 people in that district, do you suppose you could be elected in that district? Would you have any trouble being elected in that district?

A. I would certainly hope so. I think I could be elected in any district that you carve out of Nueces County. But I might be wrong. I got beat for the Senate one time.

Q. Would you agree with Dr. Garcia that there is a legacy in Nueces County of things like the poll tax, the restrictive voter registration, the restriction on migrate voting as a result of the long term residents requirement, would you say that that has created a legacy which has disinterested Mexican-Americans in participation or has visibly effected their participation?

A. Well, it has been my observation and maybe I'm prejudiced because I have so many friends in the Mexican-American community and so many supporters, but if you will go with me on election day, let me take you on a tour through Nueces County you will find the most active polling places and the most articulate areas of the community are the Mexican-American communities. Now, that's where the activity is on election day.

Q. And if Dr. Garcia's deposition indicates he doesn't feel that there is that turn out, would you dispute that?

A. Again, I respect the Doctor's opinion. I would disagree with his conclusion that that's true. I think you only need to go to some of the precincts that are predominantely Mexican-American or have historically been and you can see the activity out there on election day. I don't have to tell you about it, you can go out there and see it for yourselves.

Q. One of the first bills that was introduced by Representative Truan was a bill to allow the teaching in our public schools in a language other than English. Do you recall what year that was he introduced it?

A. Well, he introduced it the first time he went up there. But of course, there is nothing new about that bill. It's been introduced on several occasions prior to the time that Mr. Truan ever got up there.

Q. But it now passed, is that right?

A. It has now been finally passed. And Mr. Truan didn't even get it passed his first term out there as hard as he worked on it. And he devoted a lot of time to it. But it again, like so many things, counselor, it was an idea whose time had come. You got Federal action on that area passed about the same time if you recall. So that it's one of these things that is developing, such as the housing patterns are changing, the educational patterns are changing. All of these things are changing and meshing together to bring

about the very situation that you want. I think we are going to achieve it regardless of this lawsuit.

MR. KORBEL: I have nothing further, Your Honor.

CROSS EXAMINATION

By Mr. George:

Q. I think there may have been a little confusion. You testified in response to Mr. York that one of your first orders of business upon entering the Texas Legislature was to try to repeal the poll tax and restrictive voter registration system.

A. I don't recall testifying that that was one of the first orders of business when I went into the Legislature.

Q. It was one of your primary concerns?

A. It was one that I had been actively interested in ever since I've been in the Legislature,yes.

Q. Okay. And you said that that, -- I believe your exact words were that there was a registration difficulty.

A. Yes, we have had more trouble getting them registered than we have getting them to vote. You have problems in both areas. I'm not trying to undermine that.

Q. I understand that. I just wanted to find out if you believe that some of your continuing difficulty in registration was the result of this history of registration difficulty, restrictive statutes and the poll tax. Do you think

there is some holdover effect of those in the registration?

A. Oh, I doubt it. I don't think the average voter thinks two years back when he goes --

Q. The Mexican-American citizen who is 60 years old and has never voted before doesn't think about those things, who didn't have a $1.75, who didn't know that they had changed the law from January to all year?

A. Well, you'd be surprised, I tell you. I don't know how much contact you have had at the grass roots level like that, you are going to be surprised how little about governmental processes many, many people -- and it has nothing to do with race, creed or color. It's the economic strata really that is the factor.

MR. GEORGE: Thank you very much.

CROSS EXAMINATION

By Mr. Bonner:

Q. One or two fast questions, Mr. Hale.

A. I'll try to give you some fast answers.

Q. Okay. Were you in the legislature when the legislature agreed or voted to allow Harris County to be divided up into single member districts?

A. Yes.

Q. I believe you testified that --

A. I voted for that amendment.

Q. Okay. I believe you testified that the reason the State adopted the multi-member district scheme was because of it's reaction against the ward politics of the 19th century, is that correct?

A. I think that was historically one of the reasons.

Q. Since you've been in the legislature, can you tell us what led the legislature to make a departure from this tradition with regard to Harris County.

A. The Federal courts.

Q. Specifically what?

A. Well, you see, we got into areas there where it became intolerable when you reached a certain size. Harris County had reached a size, and in the legislature when that was first done, and I'm sure you are familiar with the history of this, the first breakdown in Harris County was not the single member districts. The first breakdown in Harris County was to divide the county into three representative districts. Two of them elected six, one of them elected seven. At that time Harris County was entitled to 19 represertatives.
And the reason behind that breakdown, and I believe Bob Eckhart had a hand in writing that, if I'm not mistaken, was the fact that Harris County had grown to such a size that 19 running at-large, the voters were so confused that they couldn't get to know any of them.
So, during that session of the legislature, the

redistricting committee reached a policy decision, right or wrong, and I did not necessarily agree at the level which they set this, but they set the breaking point at 15. If a county has more than 15, 15 or more or more than 15, if the county has more than 15 we would break it into smaller units. If it has 15 or under, we would leave it as a multimember district. At that time in the committee I argued that the breaking point ought to be lower than 15. I felt like it ought to be somewhere around 5. I argued for five at that time as being the breaking point.

JUDGE WOOD: There has been some mention about a million people in this testimony. That's not the criteria that the legislature chose to follow? It's 15 in number and when it goes above that, they automatically put them in single member districts, is that right?

THE WITNESS: Well, it wasn't automatic, Judge. But the legislature did in that session break Harris County down because it had gone above the 15 level.

JUDGE WOOD: But it's automatic now?

THE WITNESS: It seems to be.

Q. (By Mr. Bonner:) Are you aware of course that the delegation from Dallas County was composed of about 18 people as of 1970, is that correct?

A. More than 15. They should have been broken according to the Harris County policy.

Q. But they were not, isn't that right?

A. We didn't pass a redistricting bill at this last session.

Q. Just one or two more small quick matters if you will. Were you here when I believe it was Representative Ed Harris from Galveston who testified?

A. You mean here in the Courtroom?

Q. Yes.

A. No, sir, I wasn't.

Q. You didn't hear his testimony. What is your opinion of him as a legislator and as a person familiar with the legislative mechanism?

A. Ed is a fine representative. He has done an excellent job for Galveston County.

Q. As I recall his testimony, Representative Harris stated that the real reason the Legislature didn't pass the redistricting bill in this past session was because of opposition from Tarrant County. Would you agree with that?

A. No, I don't necessarily disagree with that. As a matter of practical politics there was a big fight in the Tarrant County delegation during the session. Now, I can't give you the details because I tried to stay away from it. I didn't want to get involved in their delegation battles, but there was a lot of friction in the Tarrant County delegation. And there was a lot of manuevering in committee and

otherwise as a result of this situation. Yes sir, that certainly true.

Q. So that either as a result of the schism or because of the uncertainty of the rest of the legislature as to the position of the Tarrant County delegation, the redistricting bill was not passed at the last legislature.

A. Well, I was not in favor of passing a redistricting bill. You find a lot of members who are not in favor the last time because we want some definitive guidelines. I would prefer to keep Nueces County as a multi-member district. And as long as it's constitutionally permissive for us to do so, I would vote that way as a policy decision which we would make in the legislature.
Now, if the Court tells us that we can't continue multimember districts under the Illinois case, we don't need that standard. If we've got to break it down, then I say the first time we meet after we get those guidelines we'll do the job and we'll do a good job.

Q. But it is true that the legislature has not consistently followed it's own guidelines with respect to redistricting, is that fair?

A. Well, of course the thing you speak of as guidelines are very tentative in nature because of the fact that one session of the legislature can't bind the next session. We set this 15 member guideline, the redistricting committee

in the 1965 redistricting bill set this guideline at 15. But the next time we got into a redistricting bill two years later, the redistricting committee membership had changed. And they were not necessarily governed by a guideline that the previous committee had set. That's the reason for that. It is because of the personnel change.

MR. BONNER: Okay. Nothing further.

JUDGE GOLDBERG: Let's take a 15 minute recess.

(The Court recessed at 3:45 and resumed at 4:00.)

JUDGE GOLDBERG: Now, are you all through questioning this witness?

MR. KORBEL: I have one question to ask the witness, Your Honor.

JUDGE GOLDBERG: All right, Mr. Korbel.

CROSS EXAMINATION

By Mr. Korbel:

Q. How many Mexican-American State Representatives, how many State Representatives of Mexican-American descent have served in Austin from Nueces County since Reconstruction?

A. Well, I can't speak from reconstruction.

Q. From your knowledge.

A. We had only one representative representing Nueces, Jim Wells and Duval County for many years, up until the 1951

reapportionment. Since the 1951 reapportionment when we first went to multi-member districts, there have been two elected, Mr. Tony Bornillo and Mr. Carlos Truan.

Q. Isn't it correct that Nueces County is 45 percent Mexican-American?

A. I have the census figures here if you will permit me to look at my notes. 51 percent white, 5 percent black, 43 percent chicano and one percent other in Nueces County according to the 1970 census figures.

Q. How do you explain the phenomenon that only two Mexican-Americans have been elected in such a long time?

A. Well, on the explanation that there have been very few candidates in some elections. For instance we had only one race down there this last time for District Judge.

Q. For the state house of Representatives.

A. It involved an Anglo versus a Mexican-American, and two very fine men. It was a close race and it was hard to make a choice. You wanted to vote for both of them because they are both outstanding people. We frequently have had that situation in the legislative races.

Q. For the State House of Representatives, why is it that there have only been two from the House of Representatives.

A. It just so happened that way, Counsel. I don't know.

Q. Why is it that there have been only five Mexican-

Americans elected to county wide positions since reconstruction. Why is that? Can you explain that?

A. When you go back to reconstruction, you are going back a year or two before I was born.

Q. Let's say in the last 20 years then.

A. We are only concerned as I understand this lawsuit which involves multi-member districts, we didn't have multimember districts until 1953. -- the 1951 reapportionment. So it seems to me that whatever happened prior to that time was historical memory.

Q. How can you explain the minimal impact of Mexican-Americans on Nueces County politics?

A. I think the explanation on it, Counsel, is one that I have already gone into to some degree. I think it's the result of housing pattern discrimination, of educational lack of opportunity. For instance, you ask me how many doctors do we have Latin American or how many lawyers. You will find the percentage real low. Why? It's not necessarily discrimination politically that's doing that. It's the educational process and the entire background that we are trying to overcome and trying to do it on a basis that it doesn't fragment the community and doesn't polarize the community. I think polarization is bad in any area. And I think you would agree with me on it. What we need to do is to get the people together and not spread them apart. We need to emphasize what

we have in common and not what our differences are.

MR. KORBEL: I have no further questions.

EXAMINATION

By Judge Goldberg:

Q. Mr. Hale, Representative Hale, I know that you have a long history of interest in public education in Texas,appropriations for public education. Did I understand you to say it was your opinion the Corpus Christi Independent School District was a desegregated school district by your definition?

A. Judge, what I said was that we are not a segregated school district. Again, you get into a question of terminology. For instance, we do not have any policies of segregation in our system.The Delmar Junior College District opened it's doors to all races, creeds and colors voluntarily. The school district opened the door of any school to any child that wanted to go there. We've got a transfer policy where any child can transfer to any other school in the entire system unless they are going from a minority school to a majority school. So that what I'm saying is that there is no policy at this time of attempting to maintain a segregated school system.
The segregation is the result of housing patterns and economic patterns and other factors in our life other than the school board itself.

Q. I'm not suggesting the reasons, I'm simply asking you as an expert, you've been asked about a lot of other matters and I think you are an expert in the education field--

A. I'm in doubt about that.

Q. You want us to understand your testimony that the Corpus Christi Independent School District qualifies as a segregated School District.

A. Well no, not under the standards laid down by the Court. Now, that matter is in litigation now,and as you know, Judge Cox has the plan. The latest plan that was submitted down there was unacceptable and he has had several conferences with them and has instructed them to submit a new plan. They are working on a new plan now.

Q. One other question about the Corpus Christi Independent School District. There is a street in Corpus Christi called Ayers Street, isn't there?

A. Yes, sir.

Q. Has there been any scholastic migration between the Mexican-Americans living on one side of that street and the Anglo living on the other side of the street in order to achieve any greater degree of desegregation in the Corpus Christi Schools?

A. I honestly don't know, Your Honor.

Q. You do not know?

A. I don't know.

Q. You do not know whether or not Ayers Street represents a corridor of segregation, do you?

A. Well, I've heard that term used for the first time in the Courtroom today while I was sitting out here. And they had a map here showing a corridor. I took down the precinct numbers off of the map during the noon recess. Unfortunately the figures I have are by census tracks because that's what we have to operate on reapportionment. I don't have it by precincts. I was going to compare the breakdown in their corridor according to the US Census figures, but I haven't been able to do it yet. I have not heard that term "corridor" until I hit the Courtroom here today in applying to that area of Corpus Christi.
Windsfield Junior High School is on Ayers Street out there and it's on the south side of Ayers Street, if that's of any significance. But again, the fact that there are schools there, you'll find schools, if you are talking about they are not desegregated, because you'll find one school that predominately Mexican-American. There are other schools that are predominately Anglo-American But its' because of the housing patterns, Judge, and not because the school board decreed that only Mexican-Americans can go to this school and only Anglos can go to that school. It is a fact --

. Representative Hale, you have told us, and I'm quite in agreement with you, that you think the educational process is a very important thing in the development of our society. You say there should be more Mexican-American doctors if they had better educational background and there would be more lawyers. I assume that you think desegregated education would go toward that end. Is that right or wrong?

A. I don't know the answer to that, Judge. I've read a lot in that area. I don't know whether desegregation is going to help that or not. But I do think they need to raise the level of educational opportunities in all areas of our society and in all economic strata including race, creed, color, or whatever. I think that our educational system leaves a lot to be desired.

Q. Then I'll ask you one final question. Assuming without arguing further that the Corpus Christi Independent School District is not a desegregated school system, just assume that, I'm not asking you to say so.

A. Yes, sir.

Q. And assuming that the Mexican-American community is interested in desegregated education, whether they are right or wrong, assume that they are, because I think the testimony in this record would show that they are, do you think that the input, the political input in Nueces County by the Mexican-American community or their ability to interpose that input has been a significant

factor or an insignificant factor in achieving desegregation.

A. I'm not sure that I understand the question now, Judge.

Q. I'll try to repeat it. Assuming that desegregation is a norm that the Mexican-American community would like to achieve, whether you think it right or wrong, assume that's the dominant philosophy of those people.

A. We'll assume that.

Q. Assume that. I want to know if you think that they have been effective politically in achieving that system if you take my assumption that the Corpus Christi School System is not a desegregated system.

A. Well, if you assume that it's not desegregated, I suppose you would have to say nobody has had any effect on it.

Q. Your answer then would be that it isn't the fact of the lack of input on the part of the Mexican-American community that has failed to do that, but it's the failure of the entire community if it was a desirable objective.

A. I certainly would accept my part of the responsibility in the same way that I do on the inadequacies of any of our schools here, that we could do a lot more than we have done in all areas. I think I see what you are getting at now, and I am inclined to agree with you, Judge. I think

that we do need to increase the input from all of these minority groups into the political process in every way we can. And again, I think that the reason that we haven't had a greater input politically from the black community or from the Mexican-American community is the same identical reason that we don't have very many black lawyers or we don't have very many Mexican-American doctors. It all gets back to the basic underlying causes that have allowed this situation to grow up in this form and pattern.

Q. As you have pointed out, housing and education.

A. Housing and education, yes.

Q. And their political input is necessary.

A. Well, the political input as you educate people I think the political input follows. It follows education.

JUDGE GOLDBERG: Thank you very much.

EXAMINATION

By Judge Justice:

Q. Are you familiar with the original decision of the Supreme Court in Brown versus the Board of Education?

A. In a general sort of way, yes, sir.

Q. Do you agree with the decision of the Court in that instance that a segregated education is inherently unequal?

A. Yes, sir. I agree basically with the decision of

the Court in the Brown case. Yes, sir.

Q. Do you agree with the decision of the District Court in the Cisneros case to the effect that Mexican-Americans constitute a separate ethnic minority, and as such if they are in a separate school they are in a segregated school. If a school is composed entirely of Mexican-Americans, that it is a segregated school?

JUDGE WOOD: They are not a minority, they are a majority.

JUDGE GOLDBERG: If the school is 90 percent Mexican, would you call it a Mexican school?

THE WITNESS: Well, Judge --

JUDGE JUSTICE: That's what I'm asking. I'm asking you whether or not you agree with that decision.

A. Yes, sir, the Cisneros case, yes, sir, I think that we have a lot of progress to make in Nueces County.

Q. I don't believe you have answered my question. My question is would you agree with the holding of the Court in that particular case. Whether you do or not, I respect your right to agree or to disagree. But I'm just asking you what is your opinion.

A. No, sir, I think basically that the Court was correct in it's ruling. But, if we have a difference here, it's on whether or not the School Board has deliberately brought that situation about. And that's the area where I think we are in

disagreement. It seems to me that it has grown up by virtue of housing patterns and other things, other than the overt act of the school district in just saying we are not going to have desegregated schools. Let me call your attention to one thing that you may not be aware of, Your Honor, and that's this, you talk about the Mexican-American being an identifiable ethnic minority group, in the school system that was prohibited up until the Federal Court changed it.

Q. What was prohibited?

A. The Mexican-American community for years has protested to the Texas Education Agency over the fact that in assigning out minimum foundation school funds that they identify them as Mexican-Americans on the school records. They wanted to be identified under the category of white rather than as a separate identifiable race.

So about eight or ten years ago,and I'm not sure exactly when this came about, as a result of that activity the Texas Education Agency eliminated that breakdown on it, and as a result, the statistics did not show it. At the time the Cisneros case came up, the school board could not give you an accurate count of who was Mexican-American and who wasn't because they didn't heep the statistics in that form.

Q. Now that they know, are they making and progress in desegregation?

A. Well, progress is certainly moving slow, Judge. It is certainly moving slow.

JUDGE JUSTICE: That's all the questio I have.

JUDGE WOOD: I have no questions.

JUDGE GOLDBERG: Anyone else? All rig thank you very much. You can get of the straight jacket now.

Now, has everybody rested?

MR. YORK: We hope to rest tomorrow, Your Honor.

JUDGE GOLDBERG: Hasn't everybody finished?

MR. YORK: Yes, we are finished, Your Honor.

JUDGE GOLDBERG: Give the benediction.

MR. YORK: We have a variety of exhibi which Mrs. Levantino will tender. And we also have the deposition testimony which ha been taken in various counties and which is fairly voluminous which we will tender into evidence.

JUDGE GOLDBERG: That will all be file And you all cooperate to that end. Is that right?

MR. YORK: Yes, sir.

JUDGE GOLDBERG: I want to begin now to discuss with all of you---

JUDGE WOOD: Wait just a minute, what about the attorney's fees? I have a note that they were going to check on it. Did yo agree with them?

MR. YORK: I thought we could submit that by a later stipulation.

JUDGE GOLDBERG: You were going to stipulate that, and if there was any problem we'll see about it later, is that right?

MR. YORK: Yes, sir.

JUDGE JUSTICE: As I understand it, you still want to tender some exhibits that have not yet been offered?

MR. YORK: We do, yes sir.

JUDGE GOLDBERG: Have you seen them?

MR. RICHARDS: Yes, and we have certain objections to them. I could state them in writing in my brief.

JUDGE GOLDBERG: That's fine. Let's don't have any problem about getting them in here, getting the objections made and we will take everything under consideration.

JUDGE JUSTICE: We had better let her identify exactly what she is going to offer.

JUDGE WOOD: Are those identified, Mr. York, by exhibit numbers?

MR. YORK: Yes, they are marked and I believe Counsel has seen them.

MRS. LEVANTINO: We would like to offer Defendant's Exhibits 1 through 12 relating to campaign expense reports of certain candidates. Exhibits 13 through 32 which are house journals reflecting certain bills and votes taken on those bills during the Legislature. Exhibits 33 through 36 which are the election returns in El Paso County for the

Democratic Primary elections of '70 and '72 and the general elections of '70 and '72. And Exhibits 37 through 42 which are depositions of Tom Moore, Felix Tijerina, Terry Doyle, DeWitt Hale, Travis Peeler and 42 should be Madison Sowder. I can't find it in this set here, but it should have been filed with the Court. I've got a copy of it if you don't have it there. I will leave you a copy. And that's all we have to tender.

JUDGE JUSTICE: All right, they will be received in evidence subject to the objection which will be found in the briefs of Counsel.

JUDGE GOLDBERG: Now, has everybody completed their housekeeping and so forth?

Let's all gather up here and let's see how we are going to work out the rest of our housekeeping problems. Come up closer to that everybody can hear me.
In the prior case, you all recall we came down with out opinion before the filing date. It is our hope, our wish and our ambition-- I don't want to start having orders changing filing dates, we've got enough problems in addition to everybody else's problems. Now, I realize that it's December and I realize that it is Christmas and I hate to burden you with what we are going to have to do, but I don't see any end to this. Anyway, we are going to ask for simultaneous briefs, simultaneous briefs filed by anybody

and everybody including you or whoever you are, we'll call you the ghost, by the delivery of one copy or all that's necessary to our respective offices as one with the clerk here. To the extent that it is humanly possible in these briefs, I want each of you to give us references to the depositions and the page numbers, and the same thing with respect to exhibits. It's just going to expedite what we have to do. And to the extent that you can, to the testimony that we have on trial here. You can't do it perfectly, you'll just have to refer to it. But do your very, very best because it's just going to help us along in what we are trying to do.

It seems to me that we will then attempt to write an opinion well enough in advance of the filing date so that if anything has to be done, I don't say that it will, I certainly have not made up my mind on anything, but it may be necessary that we meet again and discuss what we do from the opinion forward.

I'm not anticipating that because I don't know. But this would have to be done in the early, early part --- when I say early part, it will have to be done during the month of January. It couldn't be done in the first part. We couldn't possibly digest everything in the briefs, read the record and do everything we are supposed to do and come

out with an opinion much before the middle of the month of January.

And I understand the filing date is February 6th. Am I right or wrong about that?

MR. YORK: I believe that's right.

JUDGE GOLDBERG: I've got a calendar here. Representative Hale, is it the first Tuesday--or what is it?

REPRESENTATIVE HALE: Judge, when you started talking about that, I was afraid you might ask me. I believe it is the first week of February.

JUDGE GOLDBERG: We are going to try to beat that deadline.

REPRESENTATIVE HALE: I believe it's on Monday, Judge. The first Monday in February, I think.

JUDGE GOLDBERG: Thank you very much. Now, of course the briefs as far as I'm concerned, speaking for myself, I tell all of my clerks I don't worship at the shrine of succinctness, but that doesn't mean anything if you have read any of my opinions because you know I don't. But that doesn't mean you should write forever because we haven't got enough time. You worship at it this time and see how we get along. Do you have anything to add?

Oh, one other thing. As I understand it, am I wrong about this, that you each have copies of the depositions

but there's not enough copies of the depositions to go to each of the judges, is that correct?

MR. YORK: I'm afraid that is correct.

JUDGE WOOD: How many copies do we have of the depositions?

JUDGE GOLDBERG: How many copies of the depositions were made?

MRS. LEVATINO: Well, we got one copy of all of them plus an original.

MR. RICHARDS: I have just those that I took in the cases I'm responsible for. I can xerox mine and make them available.

JUDGE WOOD: If we could have the original that's on file with the Court and if you could get together and send us copies of all of the depositions, that will save us a great deal of time. We can have those right away.

JUDGE JUSTICE: Each Judge wants a copy.

JUDGE WOOD: Rather than having to transmit them back and forth, and this way we can start reading those now.

MR. GEORGE: I don't think there is any problem.

JUDGE GOLDBERG: I forgot to tell you the fatal date.

MR. RICHARDS: Yes, I thought you were going to leave that up to us.

JUDGE GOLDBERG: We are going to have to ask you

to file your briefs at the close of business on December 21st. I'm sorry that it is the week before Christmas but maybe you can work hard and then enjoy your Christmas better. I don't know what else to do, gentlemen. I'm afraid if we delay it any longer we're going to be in deep trouble. What's your problem.

MR. RICHARDS: Exhibits, can the exhibits remain?

JUDGE JUSTICE: We won't need the exhibits.

MR. RICHARDS: Can they remain here until we file our briefs?

JUDGE GOLDBERG: Yes, that's all right. You keep the exhibits here and then as we need the exhibits we will get them. Let's keep everything here for the time being. Until December the 21st everything is here except you are going to send us the depositions. And is a copy of this testimony going to be available?

JUDGE JUSTICE: Yes, it will be available by the 18th as I understand it.

JUDGE GOLDBERG: Now, is there anything else that you have?

JUDGE JUSTICE: Let me see if I understand this correctly. Immediately upon the filing of the briefs, you are going to send each individual Judge a copy of the depositions.

MR. RICHARDS: We can do it in advance of that

date.

JUDGE WOOD: Do it right now. During the first trial we were trading them and reading them at night during the trial because we didn't get as early a start the last time as we did this time. We got through it quicker. But the sooner we get those depositions, the quicker we will start to work.

JUDGE GOLDBERG: Seriously, I do want on behalf of all of us to not only thank you for your cooperation in the Courtroom, but cooperating in order to bring the case to the Courtroom, and you all have been very cooperative and I know that I speak for all of us. I've enjoyed every minute of it and I hope that I have not exhibited too much impatience.

With that, the Court will stand adjourned and you will hear from us.

(End of proceedings.)

COURT REPORTERS' CERTIFICATE

WE, ERNEST C. SWANSON AND DOROTHY DAUGHERTY, Official Court Reporters in and for the Western and Eastern Districts of Texas, do hereby certify that we reported the above styled case in shorthand and later reduced our shorthand notes to typewritten form under our direction, and that the above and foregoing constitute a true and correct transcript of said proceedings.

Signed by me this the 12th day of December, 1973.

ERNEST C. SWANSON
OFFICIAL COURT REPORTER

Signed by me this the 14th day of December, 1973.

DOROTHY DAUGHERTY
OFFICIAL COURT REPORTER

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BE IT REMEMBERED that heretofore on the 28th day of January, 1974, before a three-judge panel consisting of the HONORABLE IRVING L. GOLDBERG, Circuit Judge for the United States Court of Appeals, Fifth Circuit; the HONORABLE WILLIAM WAYNE JUSTICE, United States District Judge for the Eastern District of Texas; and the HONORABLE JOHN H. WOOD, JR., United States District Judge for the Western District of Texas, the above Civil Actions came on for Oral Hearing on the Presentation of Plans for redistricting, at which time the following proceedings were had:

CLERK OF THE COURT: Civil Action Nos. A-71-CA 142,143, 144 and 145, and No. A-73-CA-115, 146 and 155, styled Regester, Et Al, versus White, Et Al for a three judge hearing.

JUDGE GOLDBERG: Good morning, ladies and gentlemen. I take it all Counsel have identified themselves to the court reporter, presences indicated and people represented?

JUDGE JUSTICE: No the court reporter is shaking her head. They have not.

JUDGE GOLDBERG: Have not?

Please stand and give your name and who you represent.

MR. GLADDEN: My name is Don Gladden from

Tarrant County. I am here representing the Plaintiffs Escalante, Et Al.

MR. CRAWFORD: I am J. Phillip Crawford, Travis County, and I represent Chapman, Et Al

MR. GEORGE: I'm R. James George. I represent the Republican Plaintiffs, the Honorable Jack Warren, Et Al.

MR. RICHARDS: David Richards. I represent the Intervenors Charles Wright, Et Al

MR. KORBEL: George Korbel. I represent the Intervenors Moreno, Et Al.

MR. BONNER: Norman Bonner of Tarrant County. I represent the Plaintiffs Gaskin, Et Al. My colleague is George Martinez from Dallas.

MR. YORK: I'm Larry York, Your Honor, and Liz Levatino. We represent the Defendant Briscoe and White.

MR. MOORE: Tom Moore, Jr., along with Judge W. C. Haley, Waco, Texas, representing McLennan County, subject to being stricken.

JUDGE GOLDBERG: Subject to being what?

MR. MOORE: Stricken.

JUDGE JUSTICE: At an earlier time Representative Moore from McLennan County asked permission to file a plan. I told him to file it

with the Clerk, and that it could be filed subject to being stricken by the Court.

JUDGE GOLDBERG: He just filed a plan?

JUDGE JUSTICE: Yes, as I understand it.

JUDGE GOLDBERG: We're assembled here this morning to write an epilogue, and I hope it follows the tradition of epilogues and will be very, very short.

I want to make a few observations which might be helpful in this regard. The Court felt that you should be heard and a minimum or modicum of testimony received, if such be necessary, to support or in derogation of plans before the Court. We are not here today concerned with the issue of whether or not the counties that are to be apportioned -- whether or not that decision is correct or incorrect. You will have to go up for that decision. On the horizontal plane this morning that issue has been decided by a majority of the Court.

Before the day is over you may hear from one of the judges or maybe more than one with respect to a generalized statement on that issue. I wish everyone would keep in mind that this case -- that we have in the record in this case ethnic

demographic information covering a very, very wide spectrum. All of this has been examined and studied by the Court. If there is anything that is of vital significance with respect to plans, we, of course, want to hear it, but we do not want any repetive testimony or evidence. We don't think it is required nor appropriate at this time. Now, as a friend of Counsel I would like to make a suggestion -- all Counsel -- I think you could best spend your time telling us why your plan or anybody else's plan is a plan that ought to be adopted for a specific county or a criticism of all the plans, using the material and the testimony and the evidence that is before the Court by way of records, but if irresistible urge is upon you that more testimony and evidence is required to illuminate the Court, well, we're not going to cut off the incandescence. Having made these few preliminary remarks, I'm going to do as I did before, turn the mechanics of this over to Judge Justice.

JUDGE JUSTICE: Ladies and gentlemen, we have decided to take up the relative merits of any plans that might be offered to the Court in the same order in which we have treated them in the

majority opinion of the Court which has been prepared, and they are as follows -- in other words, we would like presentations in this order. Tarrant County, Jefferson County, -- I don't have the district numbers before me, but I think this will be sufficient to identify them --McLennan County, Travis County, Lubbock County, El Paso County and Nueces County.

Is there objection to this method of proceeding?

MR. RICHARDS: No objection.

JUDGE JUSTICE: If not then, we will begin with Tarrant County.

MR. GLADDEN: Excuse me, Your Honor. Does that mean everybody's plan regarding Tarrant County is to be presented, and then--?

JUDGE JUSTICE: And then we'll go to another county. Yes, does the Attorney General have some comment?

MR. YORK: Your Honor, the Court may not be advised that pursuant to an order the Court entered this week that several plans have been adopted by the Defendants as their own. One was adopted very late, and the Court may not be aware of that. It will have a bearing on how the

plans are presented.

JUDGE GOLDBERG: I can't hear you.

MR. YORK: The Defendants have now adopted five plans of these several counties, so that the Defendants---.

JUDGE JUSTICE: Adopted plans of non-parties? Is that what you're saying?

MR. YORK: Adopted plans of non-parties, and in one case, Your Honor, in Tarrant County, there is a difference in three districts between the earlier sealed plan which has been submitted and the plan which the Defendants now adopt. We had been advised that there might be some who would object to the Defendants adopting these plans. We would think it might be appropriate to have some view from the Court on that procedure, because that ruling might affect and would affect the manner in which we would present the rest of our proof. We would assume that the Court would not bar any of these plans from being heard and evidence being heard on these five plans. In that connection we also want to urge the Court to reconsider its ruling that it would not hear evidence in the other counties from non-party plans, non-sealed plans unless they have been

adopted by the parties, because to allow parties who are here to comment on plans which are here and sealed without allowing the people who have filed the sealed plans to defend their plans or to comment on the party plans we feel would be unfair.

JUDGE JUSTICE: Well, our only purpose, of course, in making that particular ruling is in the interest of time, and if we allow nonparties to come in at this late stage, I can foresee that this hearing might extend over several days, and we simply don't have that kind of time.

MR. YORK: We understand the Court's reasoning in that regard, but, nonetheless, we think it is important that the Court hear that evidence.

JUDGE GOLDBERG: Evidence with respect to what now?

MR. YORK: Evidence with respect to nonparty plans, sealed plans which have not in some cases been adopted by any of the Defendants or by any other party.

JUDGE GOLDBERG: If that were permitted, how much testimony do you have?

MR. YORK: I think that first of all on the

five or so plans that have been adopted by the Defendants White and Briscoe, rather than having the lawyers talk about the plans we would propose to put one witness on for each one of those counties who is from the county who is most familiar with the plan and, we think, can more expeditiously explain the plans to the Court than can we as lawyers from Austin. The other two counties, there will be probably one or two or more witnesses who would want to testify from those counties about those plans, but not more than three or four witnesses.

JUDGE JUSTICE: Well, what counties? Let me put it this way--what counties---?

MR. YORK: Have not?

JUDGE JUSTICE: ---have not had plans submitted which the state has adopted?

MR. YORK: El Paso, Your Honor, and Travis.

JUDGE JUSTICE: What about McLennan County?

MR. YORK: Yes, sir. McLennan County is -- probably the group that Judge Haley and Mr. Moore represent would fall into this category of sealed nonparty plans that we would urge the Court to allow be heard in this proceeding.

JUDGE JUSTICE: I don't understand. You say you have not adopted a plan?

MR. YORK: We have, Your Honor. There has been a plan adopted for McLennan County.

JUDGE JUSTICE: Does it coincide with the one urged by Representative Moore?

MR. YORK: No.

MR. RICHARDS: It coincides with the Plaintiffs' plan. I thought we had closed out McLennan County. Everybody was agreed up there.

JUDGE GOLDBERG: You want testimony on McLennan?

MR. YORK: We would like from our standpoint-- from the agreed plan or the adopted plan we do not wish to offer any, because it is the same as the Plaintiffs'. We do think that--other people have come. If they do want to present testimony they should be allowed to do so, Your Honor.

JUDGE GOLDBERG: Well, being as charitable as we possibly can within the limitations, we will hear such testimony with my prayer again that you make it as short as possible.

MR. YORK: Could we, if we may, just have one or two more---?

JUDGE JUSTICE: What we're saying is that Representative Moore may be heard.

MR. YORK: This may not be the best time---.

MR. MOORE: May it please the Court, we would appreciate being heard. We don't have any testimony.

JUDGE JUSTICE: You just want an argument. Is that it?

MR. MOORE: Yes, sir.

JUDGE GOLDBERG: Mr. York?

MR. YORK: We would like at some point, Your Honor, to raise with the Court the problem of the filing deadline. As the Court is aware the filing deadlines in the district that involved Galveston, District 17, and 19, which are Galveston, Chambers and Harris County, goes into all those counties. In view of the Court not single-membering Galveston County, it would seem that that filing deadline could be rolled back---.

JUDGE WOOD: Well, I believe they are single-membering. They're just leaving it up to the Legislature. You're talking about the plans for it at this time, but the majority holding was that Galveston was unconstitutional, too.

I notice that the Associated Press, the entire press, it was reported in Time Magazine--all the counties except Galveston and Hidalgo were declared unconstitutional. They were declared as constitutionally permissible. Galveston is also being, as I understand it, gentlemen, declared unconstitutional. I think we ought to let the lawyers know exactly how we stand on this matter.

MR. YORK: I'm sorry, Your Honor. We just did not know that we---.

JUDGE JUSTICE: We're not granting any affirmative relief at this time in relation to Galveston County, and I think your suggestion as to Galveston County, rolling back the filing deadline might very well be in order.

MR. RICHARDS: We certainly have no objection to rolling back of the filing deadline in Galveston County, as we have stated before.

JUDGE GOLDBERG: O.K.

MR. YORK: Maybe we had been misled by the letter, but the letter communication we received earlier on Monday had been that seven of the nine counties would be declared unconstitutional, and we had taken that as meaning that the other two would not be.

JUDGE JUSTICE: We're speaking about splitting the counties up in multi-member districts. We were not doing that, obviously, in relation to Galveston County, because that wasn't in issue.

JUDGE GOLDBERG: In Galveston County we are holding that--when I say Galveston County, I mean the district--I don't recall the number now--is a gerrymander, and we're going to leave it up to the Legislature to solve that within two years approximately.

MR. YORK: In other words, simple moving of the census tract and not a multi-member---.

JUDGE GOLDBERG: Precisely. Does that help you any?

MR. YORK: That does, and, Your Honor, additionally in the other counties where the deadline has been moved to February 18, we would move the Court to bring that deadline back to February 4th.

JUDGE JUSTICE: What other counties are you referring to?

MR. YORK: The other seven, the whole group.

JUDGE JUSTICE: Why would you want this done?

MR. YORK: Because, Your Honor, there are just intense problems involved in trying to run an election with a dual filing deadline. Secretary of State White is here. We would like to present some testimony to the Court about that problem. There are incumbents. There are nonincumbents who are interested in these races, who are being hurt and hurt badly because they are not allowed to file at the same time other people interested in offices in those counties are allowed to file. Everybody is allowed to have a look at who is going to file for those other offices, and beyond those problems there are very serious problems related to the Ethics Bill, filing of statements, filing of campaign statement, et cetera, et cetera, which Secretary White is very familiar with, and we would like to urge the Court to hear that testimony and evaluate it in deciding whether to move this deadline back to February 4 and let everybody have the same shot.

JUDGE GOLDBERG: At the very end---.

MR. RICHARDS: Your Honor, it may be that the Plaintiffs will be willing to accede to that.

JUDGE GOLDBERG: Let's hear it at the very end. That doesn't bother you does it?

MR. YORK: That's fine, Your Honor, and one final thing, then I'll sit down, if I may impose on the Court that long---.

JUDGE GOLDBERG: You may take longer than that.

MR. YORK: Just to say in one sentence that we would reurge the Court to allow the Legislature to draw these plans. In that connection the Court should be advised that we have proposed to other Counsel on behalf of the Defendants Briscoe and White that if they would agree not to ask the Court to draw the plans but let the Legislature do it in the next regular session, then the state would not appeal the Court's findings on the seven districts. We made that proposal to Counsel last week, and we talked about it, and we think that the Court should probably be advised of that development in the case.

MR. CRAWFORD: Your Honor, if it please the Court, in behalf of Chambers and White, et al (sic) we have read and analyzed and have totally rejected as unacceptable any compromise of this type. The argument is that we have had since 1969 and since then to come up with a plan.

JUDGE GOLDBERG: Mr. Richards?

MR. RICHARDS: We did receive a letter from the Attorney General on Saturday proposing such a compromise, and it is unacceptable, and we so advise---.

JUDGE GOLDBERG: Just a minute. Do you have something?

MR. GLADDEN: Likewise, Your Honor, we have rejected it, as well.

MR. KORBEL: We have, likewise.

JUDGE GOLDBERG: Judge Wood would like to make a statement.

JUDGE WOOD: I will file a dissenting opinion as to all eight counties, more vigorously to some counties than others. While I received the rough draft, the first rough draft opinion of my learned colleagues last week, I have not yet had an opportunity to see the final draft, which I understand will be filed sometime today. After I have studied the final opinion later today, I will dictate my dissent tonight and perhaps tomorrow and, hopefully, my dissenting opinion will be filed by Friday of this week.

JUDGE JUSTICE: We're not binding outselves to file that opinion today, because we have to adopt a plan with relation to the counties before

we file the opinion.

MR. GLADDEN: If it please the Court, in connection with the first statement of Mr. York, he covered several things at once -- the question of the late filing of their plan, which they say is a modification of one that was originally filed as a non-party plan--on Saturday I was advised by the Attorney General's Office that they were adopting what was filed as the Sherman Plan with 19---.

JUDGE JUSTICE: As the what plan?

MR. GLADDEN: Pardon?

JUDGE JUSTICE: As the what plan?

MR. GLADDEN: The Sherman Plan. Representative Bud Sherman filed with the Court a sealed plan. It was identified in his plan as Plan Y. They advised me that they were filing a plan which contained 19 changes of census tracts shifted among three of nine districts. I spent most of the weekend trying to correlate the 19 changes that were made. It was quite difficult. I don't want to cut off the Governor's opportunity to present a plan on behalf of whomever the plan was devised, but I did want to advise the Court that on November 8, I exchanged or showed the Attorney

General's office a copy of the plan that we anticipated presenting, and we feel like that by January the 18th when this Court set as the deadline for the Defendant's to file their plan, that from November the 8th to January the 18th was plenty of time for the Defendants to resolve whether they wanted to submit a plan and support a plan in opposition to our plan, and for that reason we feel that this morning in filing a plan that was related to the Plaintiffs on Saturday afternoon, the latest time which was about 6:30 P.M. or 6:00 o'clock P.M., is a little bit untimely, and we would like to call it to the Court's attention.

JUDGE JUSTICE: It's untimely, but, as I understand it, you're not objecting to it.

MR. GLADDEN: Well, I really want to apprise the Court of my situation in terms of problems.

JUDGE GOLDBERG: We're fully advised. Let's move along.

JUDGE JUSTICE: Proceed with Tarrant County. We'll hear from the Plaintiffs, such comments or evidence as you desire to present.

MR. RICHARDS: Well, I'll be quick. On behalf of the Plaintiffs Blackmon (phonetic) and

other Plaintiffs in Tarrant County, we adopt and approve the plans sponsored by Mr. Gladden on behalf of the Escalante Plaintiffs. That concludes what we have.

JUDGE JUSTICE: Mr. Gladden, you may proceed.

MR. GLADDEN: Please the Court, I do have just a little bit of evidence. I would like to call Mr. R. C. Johnson.

TESTIMONY PRESENTED CONCERNING TARRANT COUNTY

R. C. JOHNSON

a witness called by the Plaintiffs, having been first duly cautioned and sworn to testify the truth, the whole truth and nothing but the truth, testified as follows:

DIRECT EXAMINATION

BY MR. GLADDEN:

Q. State your name for the Court, please.

A. R. C. Johnson.

Q. You are the same R.C. Johnson who has previously testified in this case?

A. Yes, sir.

Q. In that connection you're the President of the Precinct Workers Council?

A. Yes, I am.

Q. Which you identified in your deposition and your testimony?

A. Yes.

Q. In that connection I'll ask you whether or not as President of the Precinct Workers Council whether or not both the Gaskin Plan and the Escalante Plan have been considered by the Precinct Workers Council in the past and more recently?

A. Yes.

Q. The Gaskin Plan was presented to them during the Legislative session. Is that correct?

A. Yes.

Q. What action did the Precinct Workers Council take in connection with the Gaskin Plan?

A. At our regular Executive Board meeting the plan was presented, and a motion at that Executive Board meeting was made. We recommended to the general body that we support that plan, but at our regular membership meeting a motion was made that we not accept our recommendation of

that plan until we had an opportunity to look at the other plans that were being presented.

Q. Since that time I'll ask you whether or not you have polled all the black precinct chairmen which is the Executive Board. Is that correct?

A. Yes.

Q. Have you polled all the black precinct chairmen as between the two plans?

A. Yes.

Q. I believe all except one. Is that correct?

A. Right.

Q. And I'll ask you what the poll showed.

MR. MARTINEZ: Your Honor, we object to that as hearsay.

MR. GLADDEN: Not asking for what they said, Your Honor, but the results of the poll.

MR. MARTINEZ: Your Honor, it's the same thing. We would object to it as being hearsay.

JUDGE GOLDBERG: Let's let it in, and we'll consider it later if you want to object.

Q. What was the results of the poll?

A. The result of the poll was 17 for, none against and one I could not contact.

Q. Seventeen for which plan, please?

A. The Escalante Plan.

Q. I'll ask you also if you have had occasion to talk with the Plaintiff Bobby Webber in connection with the various plans recently.

A. Yes, I have.

Q. I'll ask you whether or not you and he sat down and discussed his race in 1973---.

JUDGE GOLDBERG: Now, Mr. Gladden, we want to give you a little latitude, but let's don't go beyond the orbit.

MR. GLADDEN: All I want to do, Your Honor, is to get into evidence some tabulations that were made by these two parties that reflect how Webber would have run in two of the districts.

JUDGE GOLDBERG: We couldn't derive that from the testimony before us?

MR. GLADDEN: No, Your Honor, because in the runoff the statistics are not before the Court, in the runoff election.

JUDGE GOLDBERG: Who prepared this exhibit?

MR. GLADDEN: As I understand it, Plaintiff--this witness and Plaintiff Webber.

JUDGE GOLDBERG: Well, let's get on with it as fast as you can.

Q. I show you Plaintiff Escalante's Exhibit 26 and 27. Are those the tabulations you and Mr. Webber

prepared?

A. Yes.

Q. Actually, did he do the writing and you and he compared notes. Is that right?

A. Yes.

(DISTRICT 32-2, VOTES CAST BY PRECINCT IN WEBBER-SHIEFFER RUNOFF RACE -- was duly marked as: PLAINTIFF ESCALANTE'S EXHIBIT NO. 27)

(DISTRICT 32-1, VOTES CAST BY PRECINCT IN WEBBER-SHIEFFER RUNOFF RACE -- was duly marked as: PLAINTIFF ESCALANTE'S EXHIBIT NO. 27

MR. GLADDEN: We offer Plaintiff Escalante's Exhibits 26 and 27 in evidence. We have no further questions, Your Honor.

JUDGE JUSTICE: Is there cross-examination of this witness?

MR. GEORGE: No, Your Honor.

JUDGE GOLDBERG: No cross?

MR. YORK: Your Honor, I think it would be more expeditious for us to put our witness on,

rather than to undertake to cross-examine this witness, so that's what we will do.

JUDGE JUSTICE: All right. Stand down.

(WITNESS STANDS ASIDE.)

MR. GLADDEN: I would like to call Betty Fisher.

BETTY FISHER

a witness called by the Plaintiffs, having been first duly cautioned and sworn to testify the truth, the whole truth and nothing but the truth, testified as follows:

DIRECT EXAMINATION

BY MR. GLADDEN:

Q. Your name is Betty Fisher?

A. That's correct.

Q. You are the same Betty Fisher who testified in the original portion of this trial?

A. Yes, I am.

Q. Mrs. Fisher, you helped prepare the plan submitted to the Court recently, did you not?

A. Yes, sir, I did.

Q. In that connection I'll ask you whether or not there were some slight variations in the tabulations of the statistical information in the plans as compared to Plaintiff Escalante's Exhibit 18(g) prime. Is that correct?

JUDGE GOLDBERG: Eighteen what?

MR. GLADDEN: 18(g) prime. That was the original tabulation.

A. Yes, there were.

Q. Those came about through transpositions and made some very slight variations. Is that correct?

A. Yes, by just miscopying a number.

Q. Now, then, the plan that was submitted to the Court and filed with the Court on the 12th is as nearly as possible the accurate information as to the original plan submitted. Is that correct?

A. Yes.

Q. And the plan that was exhibited to the Court is the same plan that was offered in the proposed plan. Is that correct?

A. That's correct.

MR. GLADDEN: I believe that's all, Your Honor.

JUDGE GOLDBERG: Are you going to put the

corrections in?

MR. GLADDEN: The correct ones were filed with the Court, Your Honor, and we at this time would like to -- if it is required -- tender the plan originally filed.

JUDGE GOLDBERG: All right, any cross?

JUDGE JUSTICE: All right, please stand down.

(WITNESS STANDS ASIDE.)

MR. GLADDEN: Nothing further, Your Honor.

JUDGE JUSTICE: Mr. Bonner, do you have any evidence to present?

MR. BONNER: Yes, we do have some evidence, Your Honor.

JUDGE JUSTICE: All right.

MR. BONNER: We call Dorothy Perez.

JUDGE JUSTICE: Come forward, please.

DOROTHY PEREZ

a witness called by the Plaintiffs, having been first duly cautioned and sworn to testify the truth, the whole truth and nothing but the truth, testified as follows:

DIRECT EXAMINATION

BY MR. MARTINEZ:

Q. State your name and address to the Court.

A. Dorothy Perez, 2721 Sixth Avenue, Fort Worth, Texas.

Q. And your occupation?

A. Housewife.

Q. Is there anything else you do?

A. I am county secretary for the Raza Unida Party for Tarrant County.

Q. Are you familiar with Gaskin,et al, the plan we submitted to the Court for their consideration?

A. Yes, I am. I designed the plan.

Q. What specific criteria did you use to draw up the plan?

A. Of course, the numerical criteria, the

initial one, 75,055 will be an ideal district, and then we used socio-economic factors, the neighborhood areas, the geographic boundaries as they entered into the situation.

Q. Was there anything else?

A. Also---.

Q. Did you attempt in any fashion to maximize minority participation?

A. Yes.

Q. With respect to Districts A and B within the plan, are those the districts that would maximize in your opinion the maximum minority participation?

A. Yes, in District A,59.3 percent of the population would be minority members, black and Mexican-American, and in District B, 57.8 percent of the population would be black and Mexican-American.

Q. In those two districts Mexican-Americans and black would cooperate to elect candidates?

A. We believe they would, yes.

Q. Are there any other districts that would allow for meaningful participation by minorities?

A. District D has a sizable portion in a community called Como. District E is having an enlarging of its population of black and Mexican-American, and District G is having a movement into the Meadowbrook area, and in a few years that would be more heavily minority. That would be

five districts having a heavy minority population.

Q. And (2) with the probability of election, (3) having an influence on the legislator elected.
With regard to the other districts that are non-minority, what were the basic criteria that you used to put things together to draw the lines?

A. We attempted to keep the suburban communities as a whole, rather than spliting them up, if possible. We also wanted to keep the areas as contiguous and compact as we could.

Q. Could you give us an example, say for District C?

A. District C is highly suburban in area with communities of Richland Hills, North Richland Hills, Colleyville, Keller, these areas were included as suburban communities, along with census tracts which were more rural, but which had more interests in common with those communities.
It looks like a long district because we included those communities, to maximize the minority population, though it does take in a large area.

Q. Have you seen the other plans that have been submitted for Tarrant County?

A. Several of them.

Q. Have you seen the one discussed by the State?

A. No.

Q. Save that, you have seen all the others?

A. I believe so.

Q. And you worked for some years as Raza Unida secretary, you stated. In your opinion will any of the other plans permit meaningful participation by Mexican-Americans?

A. I do not believe so, no.

MR. MARTINEZ: That's all I have, Your Honor.

THE COURT: Is there cross-examination?

MR. YORK: I have just one or two, Your Honor.

CROSS EXAMINATION

BY MR. YORK:

Q. Ma'am, under the plan that you have been testifying about, what would be the likely breakdown of the delegation of the nine members, assuming the things went the way you would expect them to under the plan? How many black and how many brown members would likely be elected if everything went well under the plan?

A. I would think that in District B in all

probability a black would be elected, in District A either a black or a Mexican-American or perhaps a liberal Anglo could win in that one, but in either one, there would be a high possibility of a black and a high possibility of a Mexican-American being able to win there also.

In addition to that, I would say that in District F and District H the Republican Party would have an opportunity to elect candidates.

Q. So you would believe that it would be probably one black for sure and probably a good probability of another black or Mexican-American in the other districts?

A. Yes, a high probability.

Q. And blacks and Mexican-Americans compose what total percentage of the population in Tarrant County?

A. 17.3.

MR. YORK: Thank you. That's all.

CROSS EXAMINATION

BY MR. GLADDEN:

Q. One or two questions. You testified you are secretary of the Raza Unida Party. Is that in the state or in Tarrant County?

A. Tarrant County.

Q. In that connection then you are familiar then that they recently announced that they would field legislative candidates for the Raza Unida primary. Is that not correct?

A. Yes.

Q. In making these calculations did you anticipate the fact that there would be an effort, and I assume that the party would make an effort, to attract Chicanos into the La Raza primary rather than the Democratic primary?

A. Certainly.

Q. Then did you calculate that in your district A or the Gaskin District A you reduced the population of the blacks to 40 percent. Is that correct?

A. I don't understand what you mean by reduced.

Q. O.K., not reduced. You provide for a 40 percent black population in District A?

A. Yes.

Q. With 19.3 percent Chicano?

A. Yes.

Q. And I would assume again that you're going to try to attract at least this 19.3 percent into the La Raza Unida primary rather than the Democratic primary. Is that correct? Is that the purpose of the plan?

A. That is the purpose of the political party,

yes.

Q. Then in District B you have a 47.3 percent black makeup. Is that correct?

A. Yes.

Q. And 10.5 percent Chicano which you anticipate some success at attracting out of the Democratic primary?

A. Right.

Q. I'll ask you whether or not you considered in devising your plans the residual effect of prior discrimination and its resulting reduction of participation by the minorities in the makeup of your plan, or did you go on population alone?

A. Well, we have to consider that naturally there may be higher voting records in the suburban areas, but if the inner city area has a lower voting record, it doesn't make any difference, because you're only counting that population in that area in a single-member district.

Q. So you did not consider whether or not the diminution of the residual effect of the repeal of the poll tax insofar as minorities are concerned?

A. No.

Q. I'll ask you whether or not you considered in making up that district the mean family size of the black community and the Chicano community, as compared to the white

community?

A. I did not.

Q. I'll ask you whether or not you, insofar as Districts C,D,E,F,G,H, and I you considered the effect that your plan would have on the low income white community?

A. I don't understand.

Q. O.K., in making up or drawing your lines for the balance of the districts, the other seven, did you consider whether or not the plans as you devised them would have any effect on minimizing the opportunity to participate in the selection process by low income whites?

A. I don't believe it will.

Q. Did you consider it?

A. Yes.

Q. You did consider whether or not it would have an effect?

A. Yes.

Q. Actually, your mean family income of all but the two primary districts fall above $11,000.00 in the other seven, do they not?

A. I believe so. I don't believe that is much different from your figures, however.

Q. I beg your pardon?

A. I don't believe that is different from your plan's figures, however.

MR. GLADDEN: I belive that's all. Thank you.

JUDGE GOLDBERG: Further cross?

JUDGE JUSTICE: Is there redirect examination?

REDIRECT EXAMINATION

BY MR. MARTINEZ:

Q. The question was asked of you regarding the makeup of the delegation with regard to several districts. What are the possibilities of minority participation, election-wise, in District E?

A. There has been quite a movement of black population into that area, and there are several communities which would allow for a substantial participation by blacks. It also includes several census tracts which are becoming very highly Mexican-American, so there would be a great deal of minority participation there within a few years.

Q. Within a few years possible for a third?

A. Yes, sir.

MR. MARTINEZ: Thank you.

JUDGE GOLDBERG: Mr. York?

MR. YORK: We have nothing further, Your Honor.

JUDGE JUSTICE: You may stand down. Excuse me a moment. Did you want to examine this witness, Mr. George?

MR. GEORGE: No, I thought Mr. Bonner had concluded his Tarrant County presentation.

JUDGE GOLDBERG: I don't understand your question, Mr. George.

JUDGE JUSTICE: He has some evidence to present.

MR. GEORGE: I just wanted to call one witness. I thought Mr. Bonner had concluded his Tarrant County witnesses. I'm not sure.

JUDGE GOLDBERG: Well, let's find out. Are you all through with Tarrant County?

MR. MARTINEZ: We have one more witness, Your Honor.

CARLOS PUENTE

a witness called by the Plaintiffs, having been first duly cautioned and sworn to testify the truth, the whole truth and nothing but the truth, testified as follows:

DIRECT EXAMINATION

BY MR. MARTINEZ:

Q. State your name for the Court.

A. Carlos Puente.

Q. You are the same Carlos Puente that testified earlier?

A. Yes.

Q. And your qualifications are before the Court?

A. Yes, they are.

Q. Have you had an opportunity to view other plans submitted on Tarrant County?

A. Yes, I have. We have been working with some of the legislative processes--.

JUDGE JUSTICE: Speak out a little louder, if you please.

THE WITNESS: Excuse me, Your Honor.

A. We have been working withthe single-member district plans since last December roughly, and we have had it before the Legislature, et cetera. We have had opportunity to review the other plans.

MR. MARTINEZ: Begging the Court's indulgence, Mr. Puente is recovering from a little bout with laryngitis.

JUDGE GOLDBERG: All right, we'll bear with him.

Q. With respect to the plan submitted by Mr. Gladden, are there any specific criticisms that you have?

A. One outstanding one in particular that I have is that he leaves out a substantial Mexican-American community on the north side of Fort Worth called the Diamond Hill area and also the Rosen Heights area, a black and brown area. This comprises three census tracts in the North Fort Worth area, Census Tract 50.01, Census Tract 2.01 and Census Tract 5.01. It's about 3,000 minority population, 2,000 or so Mexican-Americans and about 1,000 blacks. This criticism, in essence is that these populations were left out of his District 32.1 and, in effect, the District 32.1 is predominately black and brown, and foreseeing this plan, if it were adopted by the Court, the Gladden plan, I would foresee a classic political, tactical or divisive district

in the fact that it would encourage blacks and browns to continuously be vying for that one seat.

Q. Rather than cooperating?

A. Rather than cooperating.

Q. The individuals that are left out, the groups that are left out, they are placed in other districts or in just one other district?

A. They are placed in other districts.

Q. More than one, so the effect is to disperse them among other districts?

A. Yes.

Q. Do you have any other criticisms that you would have of the Gladden plan?

A. Well, in essence, what I have seen of the plan and the analysis of it,his district 32.2 does not have a substantial enough black population to have a black elected there except in a number of years from now. There is a black migration in that area but not an immediate majority as yet.

Q. With respect to the Republican plan, have you reviewed that plan?

A. Yes, I have.

Q. Do you have any specific criticisms there?

A. In essence, the one that I saw, and this was quite a few months ago, but, as I recall it, it dilutes

the Mexican-American vote into several districts, and the black population is diluted also into several districts. They have an outside possibility of electing a black in one district.

Q. But no chance for a Mexican-American participation?

A. None whatsoever.

MR. MARTINEZ: That's all I have, Your Honor.

MR. GLADDEN: If it please the Court, I appreciate the time circumstance, but I would like to put the exhibit up on the stand in order to cross-examine, however.

JUDGE JUSTICE: Which plan is this?

MR. GLADDEN: This is the Escalante plan, Your Honor.
If I may--I'll speak loudly--I'll stand by the plan.

JUDGE GOLDBERG. Can everybody see the plan at the counsel table? If not, move around so that you can.

CROSS EXAMINATION

BY MR. GLADDEN:

Q. Mr. Puente, you mentioned the three census tracts that were left out of my plan that contain a substantial number of Chicano people, 5.01, this is one of them (indicating). Is that correct?

A. Yes.

Q. The other one is 2.02?

A. 2.02 or 2.01, I believe -- 2.01.

Q. 2.01? Which is situated right here (indicating). Is this correct?

A. That's right.

Q. What was the other one?

A. 50.01.

Q. 50.01 is situated here (indicating). Is that correct?

A. That's right.

Q. Now, there's less than 30 percent. You remember the testimony that the yellow constituted 30 percent or greater Chicano vote. Is that correct, or population?

A. That's right.

Q. So in each of those three census tracts there

is not a concentration of at least 30 percent Chicano. Is that correct?

A. That's correct.

Q. Now then, in that connection in order then to move Chicanos in or out of the plan up here, it would be necessary to bring 70 percent white for each 30 per cent Chicano or less. Is that correct?

A. That is true, but, in essence, what can be done is moving the district, your district, in essence, District 1 up. You have the same percentages in black and brown population without having the Mexican-American population shifted into an outside district.

Q. Now, actually, 32-1 as it is constituted has a higher percentage of Chicano vote in it than your 32(a) or (b), does it not?

A. That's right, and also a higher black percentage.

Q. Yes. The black percentage in this is 50 percent, and the Chicano percentage is 22?

A. I'm not too familiar---.

Q. About 72 percent, O.K., and in your district it's 40-19 in round figures?

A. Roughly.

Q. In your plan there are several blacks, more than 30 percent, that are not in either District A or B. Is

that correct?

A. Yes, I would say so.

Q. One here particularly--I cannot see the number--36.01 where there's probably 40 percent black is not in your Plan A or Plan B?

A. I'll have to look at the map.

Q. O.K.

(REPORTER'S NOTE: Witness examines map.)

A. 36.01 is our District B.

Q. O.K. Did you help prepare this plan?

A. Yes, I did.

Q. Or did Mrs. Perez?

A. I gave roughly some guidelines.

Q. Did you anticipate the income as a factor in connection with the plan, whether or not the poor white communities would have any representation?

A. We didn't specifically on the poor white community on regular income. An analysis by Dr. John Bean from the North Texas University, an urban geographer, he did the analysis statistics for us.

Q. Your plan does have a mean family income in your Plan A and B of some in excess of $11,000.00. Is

that correct?

A. I'll have to look at my figures again.

MR. GLADDEN: I think you plan actually speaks for itself, and I won't delay the Court. I have no further questions.

JUDGE JUSTICE: Is there any other cross examination?

(WITNESS STANDS ASIDE.)

JUDGE GOLDBERG: Mr. George?

MR. GEORGE: Your Honor, I have one brief witness that I would like to offer.

I apologize to the Court. I don't have as elaborate a map as Mr. Gladden. Our plan has been on file with the Court. Briefly, this is a colored map showing the outlines of various districts. I will refer to them in examining Mr. Russell basically to our numbers on our map so that we can see it. You can compare it with the lines on that map.

R. G. RUSSELL

a witness called by the Plaintiffs, having been first duly cautioned and sworn to testify the truth, the whole truth and nothing but the truth, testified as follows:

DIRECT EXAMINATION

BY MR. GEORGE:

Q. Would you state your name for the record, please?

A. Robert G. Rusty Russell.

Q. Mr. Russell, would you indicate where you live and very briefly indicate your political experience, if any?

A. I live in Census Tract 115.02, which is located in the southern extremity of Arlington in Tarrant County, Texas. My--you indicated my political experience?

Q. Yes, sir.

A. Primarily working in the Republican Party since 1962 and as a legislative candidate in 1972.

Q. Are you involved in the--well, were you involved in preparing the plan submitted by the Republican

Plaintiffs for Tarrant County?

A. Yes, I was.

Q. Were you chairman of the committee that prepared the plans?

A. I was chairman of the two separate committees charged with the legislative redistricting for the Tarrant County Republican Party.

Q. Very briefly, please, would you indicate the factors you considered in preparing the plan and the method you went about in preparing the plan?

A. The primary consideration we used was continuity of interest of the people who lived in the district and related it, as far as possible, to geographic compactness in natural lines or divisiveness. In our plan we're similar to Mr. Gladden's in our outlying districts. However, there is a considerable difference in the inner city area, which is to a large extent low income regardless of minority composition---.

Q. May I interrupt you just a minute, Mr. Russell? Mr. Puente testified he examined the Republican plan, and it did not allow for any minority participation and fragmented the minority groups. I believe these are our Districts H and I, the green one here and the red one here (indicating). Would you briefly give us the basic population by ethnic and racial groups in those districts?

A. All right. The District H is approximately 17 percent black, approximately 17 percent Chicano, and the remainder of the population is primarily low income white with a very comparable legislative interest to the black and Chicano.

Q. What about I?

A. I is 48 percent black and approximately 5 1/2 percent Chicano, and again, the whites, the vast majority of them who live in the area will share the same economic and legislative interests.

Q. Do you have an increasing population of the black percentage in our District I? The part of I and E, our District E, is that an area of black migration into those two districts?

A. Our District E has primarily black migration into it. Districts H and I are somewhat more stagnant. E has approximately 27 percent minority in it. Our viewpoint was, rather than to attempt to guarantee a black or Chicano election, was to guarantee that any representative from that district from the different groups would have an opportunity for election, and whoever was elected would vigorously represent the interests of the minorities and the lower income whites.

Q. Obviously, in trying to get a heavy majority--District I has a heavy minority group population breakdown.

Obviously in drawing any kind of map for Tarrant County, you have only 17 percent of the total population that's minority, and you have some difficulty since they all don't live next door to each other putting them all in one district, as I understand. Is that correct?

A. That's correct.

Q. Would you very briefly describe the relationship the legislative plan submitted by the Republican Plaintiffs has to the historical boundaries of other political subdivisions, such as congressional, senatorial, et cetera, districts?

A. An overlay of U.S. congressional districts, State Senate districts, which we have two intact in Tarrant County, or county commissioners precincts, every single line we could utilize was utilized, and we did not split a single census tract anywhere on the map, so all those boundaries are intact. Only the two primary lakes in the area, one side of the lake is both the city limits and the lake boundary. We utilized both of those. We utilized main highways, main roads and especially whereever we could we used city limits to maintain integrity of the smaller political subdivisions in the county.

Q. Let me ask you quite briefly, have you examined the plan submitted by Plaintiff Gaskin by Mr. Bonner, and would you compare that plan to the plan you

prepared, just very briefly?

A. Mainly, neither of our plans will guarantee that the elected representative from a district is of minority origin.

Q. The only plan undertaken was the Escalante plan?

A. The only one I have examined from Tarrant County. The Gaskin et al plan tends to fit areas of higher economic interest instead of lower economic interest, so that there is a kind of counterbalancing, even though it takes sometimes some unusual shapes in order to achieve this; whereas, in the Republican plan we try to go in blocks like cutting a piece of pie as closely as possible.

MR. GEORGE: I believe that's all I have. Thank you.

CROSS EXAMINATION

BY MR. GLADDEN:

Q. Mr. Russell, in connection with your plan, the largest combined minority district is I. Is that correct?

A. That's correct.

Q. And that contains a minority composition of what figure?

A. Approximately 53 1/2 percent.

Q. And in that connection did you consider the economic effect in connection with drawing your lines as to how it would have an impact on the low income white community?

A. Yes, sir, we did.

Q. In that connection can you tell me how many districts are composed of what substantial numbers of low income where they would have a meaningful opportunity or a chance to elect somebody?

A. Four.

Q. Can you tell me those?

A. That would be District A, which is north of H, which would be primarily north of 28th Street. All right, the District H that we had already discussed, the District I, the District E and to some extent the District G, although it's on a little higher median income area. The significant labor interests coupled with Lake Como, the need to, at least, get some of that vote means it will have to be at least moderately responsive to the low income group.

Q. You mentioned E and G. Is that correct?

A. Yes.

Q. I didn't hear your third one.

A. It should have been A,H,I,E and G.

Q. E and G?

A. Yes.

Q. G has a mean family income of approximately $15,000.00 does it not?

A. I did not examine it from the statistical income but from my knowledge of the county.

Q. In that connection, you also combined, did you not, in G, which is roughly this section here (indicating)?

A. Yes.

Q. You combined the communities of White Settlement and Westworth Village to the Ridglea-Westover Hills area, did you not?

A. Yes.

Q. Now then, Westworth Village and White Settlement are primarily General Dynamics employees, labor-oriented. Is that correct?

A. Especially White Settlement.

Q. Particularly White Settlement. Now then, on up the hill in Westover Hills and Ridglea, that's where the rich people in the community live. Is that correct?

A. That's correct.

Q. With the exception of the folks in Tanglewood, but Westover Hills is the highest mean family income tract in the district. Is that not correct?

A. It's a very nice district.

Q. Now then, in connection with your division of the east part of the county, 36.01, which is situated right here (indicating), in your plan you do dip down and take 36.02 into one district, but you cut down and take 36.01 and put it up into a northern district?

A. That is correct.

Q. All right. Now 36.01 does have a--constitutes a large percentage of black votes. Is that correct?

A. That's correct.

JUDGE GOLDBERG: Mr. Gladden, all of this is in the record, isn't it?

MR. GLADDEN: Yes, it is, Your Honor.

JUDGE GOLDBERG: I plead with you--.

MR. GLADDEN: I rest, Your Honor. Thank you.

(LAUGHTER)

JUDGE WOOD: Let me ask you a question.

THE WITNESS: All right.

EXAMINATION

BY JUDGE WOOD:

Q. I believe you take the position that the Plaintiffs' plan here--I think you'll concede it is designed in odd shapes, the districts, in order to accomplish or assure the election of certain ethnic groups. I believe that's what you said.
Your plan is done more in quadrants. Is that right? Is that you opinion? You state that it takes odd shapes, and the Republican plan, which is now being exhibited to you, does not gerrymander to the extent of the plan they're comparing it to. Is that what you are telling us?

A. Well, the committee that worked on it made a conscious effort to attempt to divide it into quadrants, while the Gladden plan around the perimeters of the county, outside of the inner district, does take a fairly reasonable shape in blocks--not reasonable in terms of the most ideal district, but in terms of just physically looking at it, but the inner district, the middle one, in other words, we were attempting to achieve a more compact district.

Q. Now, being familiar with your own district

there in which you reside, would you say that the Plaintiffs' plan, as distinguished from the Republican plan there, is a gerrymander in order to secure election of certain ethnic groups? Wouldn't it necessarily include Republicans?

A. Your Honor, the number of minority that live in that district is so low I think it's zero percent black and not more than three percent---.

MR. GEORGE: You're talking about this (indicating)?

JUDGE WOOD: Yes.

A. Could you ask me that again?

Q. What I am saying is that the Plaintiffs' plan, as distinguished from the Republican plan, is a gerrymander in order to assure ethnic groups, but wouldn't necessarily include Republican. Isn't that true?

A. No, sir, it isn't.

Q. Well, isn't it gerrymandered, the Plaintiffs' plan in order to assure the election of certain minorities?

A. Your Honor, Plaintiff Gladden and Plaintiff Republican Party are both attempting to gerrymander in order to achieve desired results.

JUDGE WOOD: That's all I have to ask.

MR. BONNER: I have one or two fast questions. Norman Bonner representing Plaintiffs

Gaskin et al.

CROSS EXAMINATION

BY MR. BONNER:

Q. Mr. Russell, would you agree that this area here in the central part of the district and Tarrant County represents the concentration of minority residents, that is, most of the residents in the district and the county live roughly in this area here (indicating)?

A. Yes.

Q. So in formulating your plan, which, in effect, splits this identifiable area into three different districts, you were more concerned with compactness of the districts than you were with recognizing community of interests. Isn't that correct?

A. I attempted to balance the two?

Q. You attempted to balance the two?

A. Yes.

Q. You stated on direct that even had you been so inclined, you could not have formulated a district that would take into account most of the minority community, because--well, did you state that?

A. Because of the housing patterns in a

community it is very difficult. In other words, even from the statistics shown here, there will be a census tract right in the middle of a heavy minority concentration with very little minority in it, and of course, you're quite familiar with that.

Q. But would it not be even possible theoretically to carve out one district that would take into account all of the minority communities theoretically?

A. Theoretically as long as the district is considerably larger than any of the other districts.

Q. You would consider this a gerrymander, by the way, if such a district were carved out?

A. I would consider it simply drawing the district to achieve a given result, and that can be termed gerrymander.

Q. Despite the fact that all the residents live in more or less a continuous flow from one district to the other?

(REPORTER'S NOTE: There was no audible response from the witness.)

JUDGE JUSTICE: You mean by that a community of interests?

Q. An identifiable community of interests.

A. That to me would be termed a gerrymander, but it might be a very desirable one.

Q. You stated, "We pit areas--" this is your words--"We pit areas of large --" in the Gaskin plan--"areas of large economic interests against low economic interests." How are they pitted against each other under the Gaskin plan?

A. I don't have your map before me. You have a district that comprises the country club area of Arlington, the very, very nice areas of Meadowbrook and Handley, that comes across in the upper northern center of the city and comes underneath the lake into the Forest Hills area.

MR. BONNER: May I approach the witness, Your Honor?

A. On your map this would be 32(g) and you come all the way across the top of the center of the city to Census Tract 1.02, which on the larger map before us actually touches Gladden's 32.1 and you go from there all the way over to--in other words, Your Honors, the 32.3 coming in the District 32.4 is almost exactly as Gaskin's 38(h). You come almost into Arlington and then right down underneath the lake and there's a fantastic disparity of interests in that type district.

Q. Isn't it true, first of all, that most of

the people in that district are Caucasian?

A. I don't have the exact statistics in front of me.

Q. From your knowledge of the district, would you say that?

A. It should run at least 60 percent or better.

Q. Or better. In fact, isn't it true that--we have the color scheme of the Escalante plan to refer to. Isn't it true that there are virtually no minority communities in that district?

A. I'm not sure what the color code is. The dots on the Forest Hills area in terms of a heavy percentage district---.

JUDGE GOLDBERG: The what?

MR. BONNER: The dots.

A. The Forest Hills area coming under the lake has a dotted pattern.

Q. Well, isn't it also true that that district might best be described as white middle class, middle income?

A. A large part of it, but it would be difficult to classify the north part of Fort Worth or Forest Hills as middle class.

Q. Well, could you say that most of the

residents of that district own their own homes and live in a relatively clean, well-kept neighborhoods? Can you make statements like that about them?

A. You can make statements like that about the Meadowbrooks, Handley, Arlington and possibly the Forest Hills area, and the other part of it I'm not aware whether they own or rent, but it is on a lower economic level. The homes are not as well kept. The type of construction is much older and is not on a par in terms of dollar value.

Q. So at least four of the five areas that you have identified are substantially similar. Isn't that true?

A. I would say three.

Q. You also stated that under the Republican plan those particular interests of the minority community that have been identified in testimony here four could conceivably be protected by the election of a lower class person generally of whatever race. I believe you testified that lower class whites, blacks and Mexican-Americans share the same legislative interests. Is that your opinion?

A. I feel very strongly that they do.

Q. Do you feel that lower class whites who might be elected from one of your districts, I believe your District H, would be interested in civil rights legislation?

A. I believe if he ever wants to get re-elected, he will have to have a sufficient number of votes

out of the minority community, so he's going to have to be interested.

Q. Well, isn't it true that in your District H, I believe, there's 25 percent minority?

A. No, it's 34.

Q. Thirty-four?

A. In H it is approximately half and half on the black and Chicano.

Q. And your District E, which takes in much of the southern portion of the minority concentration here (indicating)?

A. It's similar to 32.2.

Q. In fact, don't the minority communities represent about 25 percent of that district?

A. Twenty-seven.

Q. Twenty-seven percent. You feel that those numbers are sufficient to assure that whoever is representative from those districts will be interested in employment discrimination legislation, housing discrimination legislation or matters like that?

A. The District E has been mentioned previously by one of Mr. Gladden's witneses, and I concur in this view. Percentage or growth of the black community is substantial, and since the 1970 census I feel that the 27 percent is going to be very low. The blacks are moving into that area. The

economic stability or the economic plateau at which they have arrived is much greater. They tend to be more successful. They live in much nicer homes and have much better jobs. Their interests in District E do not tend to be the same as the interests of the blacks in the other districts, so your economic interests have changed, and for that reason I feel that District E would elect quite possibly a moderate black. The more liveral the individual were, again speaking as a black, then the more he would need to run in District I, because there's that much difference in the economic interest of even the blacks in that part of town.

Q. I think my question is directed more to social interests than to economic interests. I asked you if your representative from either District H or District E would have sufficient political sensitivity to the minority residents of those districts to introduce legislation dealing with the employment discrimination or housing discrimination, which might well affect blacks of whatever income category.

A. Of course, I feel they would.

Q. You feel they would?

A. Yes.

Q. You don't feel there would be some hostility to this sort of legislation from the black residents of that district, those districts?

JUDGE GOLDBERG: Mr. Bonner, he's answered your question. You can have a violent disagreement with him, and you have an opportunity to tell him about it.

MR. BONNER: O.K., very well, Your Honor. One more question.

Q. Do you believe that your representative would press for such matters as school desegregation and delicate matters like that?

A. I think all representatives in the county should, for that matter. It doesn't make any difference what their district is.

MR. BONNER: That's all.

JUDGE GOLDBERG: Stand down.

MR. GLADDEN: Your Honor, I have one last question, and for the purposes of the record, I would like to identify the map that they're speaking from was Plaintiffs' original offer and tender of Plaintiffs' Exhibit 1-G.

FURTHER CROSS EXAMINATION

BY MR. GLADDEN:

Q. In that connection, Mr. Russell--.

MR. GLADDEN: We would also like to call the Court's attention that this plan or map is different from those submitted in the original plan in that the low income--those earning less than $8,000.00 in population, census tracts were identified with dots on the maps, rather than in colors, and that the high income of $14,000.00 and greater were identified with diagonal lines.

Q. Mr. Russell, when you made reference to those with dots when Mr. Bonner was asking you about those, those were census tracts and are there any diagnoal lines in that part of your plan?

A. Quite a large number.

Q. The West Arlington portion is high income, and the dots were the low income. Is that correct?

A. Yes.

MR. GLADDEN: I belive that's all, Your Honor.

JUDGE GOLDBERG: Mr. George?

MR. GEORGE: I have no questions, Your Honor.

JUDGE GOLDBERG: Mr. York?

MR. YORK: We have no questions of this witness, Your Honor.

JUDGE JUSTICE: Please stand down.

THE WITNESS: Thank you, Your Honor.

(WITNESS STANDS ASIDE.)

JUDGE JUSTICE: Does that take care of all the Plaintiffs.

MR. GEORGE: I have no evidence.

JUDGE GOLDBERG: Well, are we through with Tarrant?

MR. KORBEL: I have one thing to say, Your Honor.

JUDGE GOLDBERG: To say or to present?

MR. KORBEL: To say.

JUDGE GOLDBERG: Well, we'll listen to your saying later.

JUDGE JUSTICE: Does the Defendant State of Texas have anything to say with reference to Tarrant County?

MR. YORK: Yes, sir, we would like to call

Representative Dave Finney as a witness.

JUDGE JUSTICE: Come forward, Mr. Finney.

I notice this is Plan Z. I take it we don't have any Plan X.

(LAUGHTER)

DAVID FINNEY

a witness called by the Defendants, having been first duly cautioned and sworn to testify the truth, the whole truth and nothing but the truth, testified as follows:

DIRECT EXAMINATION

BY MR. YORK:

Q. Can you give us your full name, please sir?

A. My name is David Finney.

Q. What is your business or occupation?

A. Basically, I am a state representative from Tarrant County.

Q. Are you also a licensed lawyer?

A. Yes, sir.

Q. How long have you been a representative from Tarrant County?

A. Since 1962. Well, I was elected in '62.

Q. Have you served continuously since then?

A. Yes, sir.

Q. Have you been involved from time to time, Representative Finney, in the redistricting reapportionment process as it has gone on in our Legislature?

A. Yes, sir. I am more or less unofficial but not the official chairman of the Tarrant County delegation, legislative delegation, in the House, and during the last session of the Legislature we attempted to pass a redistricting proposal that would have given Tarrant County single-member districts.

Q. During the 63rd Session of the Legislature a bill was introduced for the purpose of drawing single-member districts in Tarrant County. Is that correct?

A. Not a bill, sir. Our problem was procedural. I mean a bill was introduced for the whole state, and then, yes, we later introduced a bill for Tarrant County and tried to pass it.

Q. How does what has been marked and what is up before the Court on the easel as Plan Z, how does it compare with the plan which was developed and submitted in the 63rd Session, this last session of the

Legislature, for Tarrant County?

A. Well, sir, D,I,C,H,A, and G are the same (sic)

basically the same, as the one we attempted to pass the last session of the Legislature. E, F and G have been changed somewhat.

Q Incidentally, are you generally familiar with the sealed plan which Representative Sherman submitted earlier to the Court?

A Yes, sir.

Q How does Plan Z relate---?

A Well, of course, in answer to Judge Justice's question a few minutes ago, we submitted one plan we called Plan X that would have dealt with District 42 or a part thereof, and then we had Plan Y that would have dealt with the inner part of the district without touching District 42, and Plan Z is a modification of Plan Y that was submitted to the Court, and the only change would be in E, F and G.

Q You have a nine-member delegation?

A Yes, sir.

Q Was the delegation itself unanimous in the 63rd Legislature in proposing and being behind this plan?

A No, sir, in the 63rd Legislature we had seven members, as I remember it, for the plan we were trying to pass at that time, seven out of the nine.

Q And as this case progressed and as it went to trial in December of this year, had that seven-to-two breakdown changed?

A Not appreciably.

Q I should have said December of '73.

A No, sir, it's still pretty much a seven-to-two split.

Q Now, after being advised this week, after we advised you this week that, actually, the Court had ruled that no evidence would be permitted on the plans unless they were adopted by one of the parties, were there substantial negotiations through the office of the Governor and office of the Secretary of State and within the Tarrant County delegation about whether or not a plan might be agreed upon by the delegation?

A We met and tried to agree on a plan, yes, sir.

Q What is the present status of the delegation's agreement on Plan Z?

A Seven for, one indifferent or, at least, not objecting. I thought at one time it was seven for and two not objecting, but I've been advised that is not the present case. I guess it is seven-one-one breakdown.

JUDGE JUSTICE: One is opposed?

THE WITNESS: Yes, sir, it's my understanding. I have not been advised of that personally, however.

Q What has been your experience in watching redistricting plans go through the Legislature and as they

are being done by the Legislature with regard to whether or not a plan which is agreed upon by a vast majority of a delegation from a county or district, whether or not that plan would generally be accepted by the Legislature as a whole?

A Well, the last session, as best I remember it, we never failed to receive a simple majority of every vote we attempted to take on the procedural steps necessary to get the bill before the House. We were unsuccessful, however, because we needed a two-thirds majority in our endeavors. My experience over the years when a delegation agrees with such a large majority as we have, a seven to two, that the bill would be passed.

MR. RICHARDS: Please the Court, I object. The Legislature has never passed a single-member district bill that I am aware of, and one of the reasons for this litigation---.

JUDGE GOLDBERG: Mr. Richards, if there's anything new in this, why -- but let Mr, York present it as he sees fit up to a certain point. I've said before we have heard a good deal about this, but go ahead.

MR. YORK: Thank you, Your Honor.

Q Tell us a little bit, if you will, about the criteria which were used in drawing Plan Z, Mr. Finney.

A Well, Plan Z is like Plan Y, next before it. I think our main concern, obviously, was to try to get a district in there that would have a black representative. The main concern, I think, of the delegation was to have a district that would assure the delegation of a black. District No. H would do just that. I mean I think that was our first concern. I think that district has approximately 66 percent black electorate, and it is our feeling that in order to fully represent the black community, in order to be a champion of their causes and in order to be able to aggressively promote their interests, the man -- the person, whoever comes from that district must be responsible to a black electorate, and there has been some other testimony here earlier about some other plans. I think they referred to a candidate in the last election by the name of Webber which would have carried either one of the plans proposed by Raza Unida. The only difference in my mind that would distinguish that is that Mr. Webber is a man of personal wealth and was able to spend a whole lot of money, and I don't know that anyone else may or may not be able to do that. However, District H as our plan is constituted here in my opinion would guarantee the election of a black person from that area, and a person who would be responsible primarily to a black electorate and in our opinion really effectively champion their cause.

The rest of the district is divided up with a view toward compactness, and I think we achieved that with a substantial compliance with the numbers involved.

In answer to Mr. Gladden's proposal on economic data, we did not consider the income of the district. Again, I say, we thought our main function would be to get a black elected. I, for one -- I don't know about the rest of the delegation, but I, for one, would certainly advance the idea that there is not that much comparison between a poor black man and a poor white man, because that's basically what the redistricting situation is all about, is the fact that there is that real difference, and I think it is a very substantial one, and I don't think that the idea of the black, brown and white being united on poverty has any real bearing for the redistricting proposals.

Q You don't believe that poor Whites and poor blacks have such a community of interests that they ought to be lumped together just as if they were really one group?

A No, sir, I don't think that there is that much community of interests between them on that basis.

Q How are the deviations in this plan, Mr. Finney, these deviations from the ideal representative district?

A Well, sir, I think they're certainly within the bounds of the criteria laid down by the Courts.

Q Incidentally, has there been prepared and do you have a copy there before you marked Plan Z---?

A Yes, sir.

Q ---which carries a breakdown of the districts by ethnic background and breakdown?

A Yes, sir.

Q And which would also show the manner in which the districts relate to the ideal district numberwise?

A That's on Exhibit E.

JUDGE GOLDBERG: Does it have the census tract?

MR. YORK: Yes, sir, it does, Your Honor.

Q How many incumbents, that is, incumbent state representatives are paired against each other by this plan?

A There are two paired in District D and two paired in District G. Otherwise, there are no other pairs.

Q How does that compare with the number of pairings that take place under the plan that Mr, Gladden has advocated?

A Mr, Gladden's plan would pair -- I don't know. I don't have the numbers handy, but I think he would pair three different pairs. I mean there would be six different people paired.

JUDGE GOLDBERG: As against four from you?

THE WITNESS: As against four for us, yes, sir.

Q In other words, two races would pair people, and three races in the Gladden plan?

A Yes, sir, his would pair the same two that we pair in District G, but it would be a different four in the other district.

Q Your plan takes about 60 some-odd percent, 65 percent of the black population into District H. If my figures are correct, that leaves about, let's see. How many Mexican-Americans would be left? Can you figure that out?

A Sir, I'm somewhat confused.

Q Well, let me put it this way. H has got under these figures about eight percent of the Mexican-Americans. It is eight percent Mexican-American. Considering that the Mexican-American population of a county is only about six percent, did you find any way to put the remainder of the Mexican-Americans into any district which would insure them in any way, topside or bottom, being able to elect a representative?

A No, sir, they won't be able to elect a representative under our proposal. The problem basically is that they are so dispersed throughout the county, and there are two rather large groupings, a large group near what we call the south side, and as Mr. Carlos Puente referred to it,

there's a rather large grouping on the north side, but they are somewhat scattered other than that.

Q What else is there about your plan which you believe the Court should be advised of?

A Basically, I think it is a fair plan, and the point is that there are approximately 80,000 blacks in Tarrant County. That's 11 percent of the population, 11.88 percent, of the population within the central area, District 32, and, according to my calculations, that's roughly one-ninth, and we gave them one out of nine representatives, so I think it is a fair plan, and I think the other aspects are fair and reasonable, because they are compact enough not to be too dissimilar in interests.

Q Are there any comments that you would like to give to the Court about any of the other plans, the Gaskin, Escalante, Republican plan or any other plan, sealed or unsealed, which have been presented to the Court?

A No further comments, no, sir. I think I have pretty well stated my objections.

Well, Mr. Gladden's plan, I would like to point out, while he purports to try to elect minorities, it is my opinion that his plan where he has District 32-I, I agree with Mr. Puente in this. It would be difficult in my opinion to elect a black from that area in view of the fact that the population breakdown there is 50 percent black, 22

percent brown and 28 percent white, but a quick just kind of glance through there would show that while we're talking about census figures, we're not talking about eligible voters, and I think that you would find that the black community has a much larger proportion of people who are under the age of 18 than would the white people in that area, and I don't know how we could arrive at the percentages in that regard, but there is a real serious problem that he would be able to elect a black from that area, and even if a black were elected, he would still be constantly confronted, you know, with a rather large white minority, whereas, under our plan he would be responsible to a black electorate and, as I say, could better represent their views.

Q And the plan that has been marked here as Plan Z, the way you have designated it, has been adopted by Dolph Briscoe, Governor of Texas, one of the defendants, and Mark White, the Secretary of State, one of the other Defendants, as the plan which they advocate and which they adopt before this Court. Is that correct?

A That's my understanding.

MR. YORK: Pass the witness, Your Honor.

JUDGE WOOD: Let me ask you one question for the record.

What Defendants' exhibit number is Plan Z for the record?

MR. YORK: It is about to be affixed, Your Honor. What number would that be?

(REPORTER'S NOTE: Exhibit sheets from the previous hearing cannot be located.)

JUDGE GOLDBERG: Let's call it Briscoe-White No. 1 for the moment.

MR. YORK: All right, sir.

JUDGE WOOD: Well, is that going to be the permanent number?

MR. YORK: I wouldn't think so, Your Honor, but I think the Clerk may be having a little difficulty.

JUDGE GOLDBERG: He can substitute it later.

CLERK OF THE COURT: I'll mark it B-W-1.

JUDGE WOOD: What number?

CLERK OF THE COURT: B-W-1.

MR. YORK: Marked as Briscoe-White No. 2, Your Honor, is the Plan Z, a smaller form of the attached map and the breakdown of the census tracts, et cetera. We would offer both Briscoe-White No. 1 and 2 into evidence.

JUDGE JUSTICE: Very well.

(PLAN Z MAP & PLAN Z DESCRIPTION -- were later duly marked as:

DEFENDANTS' EXHIBITS NOS. 43 & 44)

MR. GLADDEN: Please the Court, Don Gladden for Plaintiffs Escalante and others.

CROSS-EXAMINATION

BY MR. GLADDEN:

Q Mr. Finney, in connection with Plan Z, I believe it is your testimony that Plan Z is a modification or change from Plan Y which was filed with this Court by Representative Sherman. Is that correct?

A Basically, yes, sir.

Q Now, Plan Z as it differs from Plan Y is that you altered or changed 19 census tracts in E, F and G. Is that correct?

A Well, yes, sir.

Q Now, in that connection the deviation from the average number of the people in the district is roughly six percent. Is that not correct?

A. You're talking about top and bottom?

Q. Yes, top and bottom, from a minus 3.14 to a plus 2.91.

A. Yes, sir.

JUDGE GOLDBERG: Now, this question is directed to Plan Z?

MR. GLADDEN: Plan Z, Your Honor, yes, sir.

Q. Plan Z differs from Plan Y which is before the Court under the Sherman presentation in that your top in it was 2.8--excuse me--at the top was Plan H which was 2.8, and now the G is 2.91 above the average, and E is 3.14.

JUDGE GOLDBERG: Well, the record will show.

Q. It's on your Exhibit B-1-Z, the last page of your plan.

A. I do not have a comparison.

Q. Oh, you don't have the Sherman plan. I see. O. K. So it's actually about six percent.

Wouldn't you say, Mr. Finney, that in the preparation and consideration of this plan you testified that you didn't take into account the economics or mean family income of the various people? Did you take into account, Mr. Finney, the particularized needs of the members of the Tarrant County delegation in formulating this plan?

A. Mr. Gladden, we took into consideration the best political interests of our constituency and the people we represent, which we are elected to do in the whole county, the same thing as your plan takes into consideration the best political interests of the people you represent and the Republicans represent and Puente represents. This is a political question. There is no argument about that. I don't think anyone has disputed that today.

Q. And the modifications that were made during this past two or three days that finalized the plan Saturday morning was between the delegations as to who is going to be paired with whom and who is going to have what districts. Isn't that correct?

A. It came to that, yes, sir.

Q. So you would say that this plan maximizes the political opportunities of those people involved in the development of the plan?

A. Yes, sir, and it represents the maximization of the people we represent, which we consider to be the whole of Tarrant County.

MR. GLADDEN: I believe that's all. Thank you.

MR. MARTINEZ: Your Honor, we would first like to preface our remarks by saying we think it is outrageous that such a plan would be presented

at this late date. Of course, we have seen it, and the Defendants waited until just a few moments before they put the plan up to distribute their data. We have had very little chance to look this over, but we have seen some glaring problems aside from the deviation already mentioned.

CROSS EXAMINATION

By Mr. Martinez:

Q. O. K., Mr. Finney, you are basically familiar with the county and its demography?

A. Yes, sir.

Q. Within five miles--if you drew a line in a circle five miles outside of the center of the city, would it be fair to say that there are no Mexican-Americans of any sizable group outside of that area?

A. I don't understand your question. You're talking about a radius of five miles from downtown?

Q. A radius of five miles from downtown.

A. Outside of that area?

Q. Outside of that area.

A. It would--the concentration, I think, is within a five-mile limit. Let me answer it that way. I don't

know the extent of the distribution outside of that, but as I look at that map and approximate the distance, the largest concentration of the Latin Americans would be basically within five miles, yes, sir.

Q. About 95 percent?

A. A large concentration, and for the Court's information, I think Census Tract No. 18 is downtown.

Q. To review some of the points of your plan, in your plan you have isolated, in effect, all the blacks into one district, have you not?

A. No, sir; not, sir, we have a plan--District H would in our opinion guarantee them a representative who would be responsive to their needs. The rest of the blacks are in different areas. District F has, I think, a relatively large concentration of 15 percent. District G has another concentration but I don't think we have scattered them.

Q. So, effectively, there are only two other districts that have any responsiveness to minority needs in your plan?

A. Yes, sir, but I think that is basically the same as all the other plans.

Q. I notice something about your plan. The districts in your opinion would you say they are fairly compact or fairly spread out?

A. No, we think we have a rather compact map.

Q. Is this part of District E here (indicating)?

A. That's part of District E, yes, sir.

Q. Are there substantial cuts across census tracts in your plan?

A. Yes, sir.

Q. Just from our reference---

MR. MARTINEZ: May I approach the witness, Your Honor?

JUDGE JUSTICE: Yes.

Q. I'm going to show you a plan we call Gaskin et al plan.

A. If you don't mind, I think I have a copy here.

Q. O. K., you're familiar with it?

A. Today is the first day I have had an opportunity to see this map, but I'm fairly familiar with it, yes.

Q. Do you know where your brother legislators live in the county?

A. Yes, sir.

Q. Under that map?

A. Yes, sir, I know where they live, yes, sir.

Q. O. K. Are there any major pairings there?

A. Yes, sir, with District C under the Gaskin plan you would pair three.

Q. And who would they be?

A. That would be Mr. Lewis, Mr. Willis and Mr. Spurlock.

Q. Is there any other pairing?

A. District F would pair Mr. Shieffer and Mrs. Miller.

Q. And all other districts would have incumbents?

A. No, sir. District D would be where I am. District G would be Mr. Hilliard. District I would be Mr. Evans, and I think District E would be Mr. Sherman, although he may be paired with Mr. Shieffer and Miller.

Q. It should be Sherman.

A. Is E for Sherman?

Q. He would be in that district.

A. O. K.

Q. Then given the Districts A and B that we have described as minority districts, there are no incumbents in those districts?

A. No, sir.

Q. So basically five legislators are paired. four are left undisturbed as far as their districts are concerned, and we have two possible minority districts?

A. Yes, sir.

MR. MARTINEZ: That's all I have, Your Honor.

JUDGE JUSTICE: Anything from any other

counsel?

MR. KORBEL: George Korbel representing Plaintiffs Moreno et al.

CROSS EXAMINATION

By Mr. Korbel:

Q. You testified that you were a member of the Reapportionment Committee. Is that correct?

A. I didn't testify to it, but I am.

Q. You are a member? Would you agree with me, if possible, it is not a good idea to place highly registered white census tracts with lower voter registration Mexican-American or black census tracts?

A. That's part of what I have been complaining about.

Q. That is your approach to districting; is that correct?

A. No, sir, I think that we have to take into consideration that, but I do think you have to concentrate a large proportion of the electorate to where the black would be responsive to their needs and wouldn't have to worry about being campaigned against every time, a split vote on white or Mexican- American.

Q. If you were drafting districts, it would be preferable, as far as you're concerned, not to place highly registered white census tracts with low registration black census tracts. Is that right?

A. I don't think we went into that when we drafted our districts, but that is a problem, and I think Mr. Gladden's plan reflects it.

MR. KORBEL: That's all.

JUDGE JUSTICE: I have one question I would like to ask you, Representative Finney.

We had some testimony at the first hearing on this case. I believe, although I cannot be certain, that it was from Representative Carlos Truan from Nueces County to the effect that it was the Tarrant County delegation which blocked the adoption of single-member districts in the last session of the Legislature.

Would you give me your views on this?

THE WITNESS: Well, sir, going back to another question a few minutes ago about political implications, the Legislature is a body politic. There was a lot of politics involved in it. I imagine if we went back again, there would be more politics involved in it. I thought we had a majority of our delegation for it. We just weren't

able to muster a two-thirds vote. That was the problem of the rest of the Legislature.

JUDGE JUSTICE: I have no further questions.

THE WITNESS: May I make one other statement?

Plan F--if, in fact, economic considerations become important, Your Honors, the District F here in my opinion is a real poor district, and District E, likewise, is a relatively poor district. I mean we don't think we completely--we didn't plan it that way, but it truned out that way.

MR. YORK: Mr. Finney, are you referring then to what has been marked as B-W No. 1 when you made those last remarks?

THE WITNESS: Yes, sir.

MR. YORK: We have nothing further, except to say for the gentleman from Fort Worth's benefit if it might soothe his outrage a little bit the purpose of our repeated phone calls to Mr. Bonner's office on Saturday afternoon was to advise them of this fact, if that would make their outrage a little less.

MR. BONNER: Three days wouldn't be enough

either, Your Honor.

JUDGE GOLDBERG: Well, Mr. York, do you have any other witnesses on Tarrant?

MR. YORK: No, sir, we do not.

JUDGE GOLDBERG: Does anyone else have any other witnesses on Tarrant?

The Court then will take a ten-minute recess, and then we'll hear some arguments on Tarrant. In the meantime, try to agree among yourselves as to how you want to divide up a minimum amount of time.

(Reporter's Note; The Court then, at 10:45 o'clock, A.M., January 28, 1974, recessed until 10:55 o'clock, A.M., the same day, at which time it reconvened.)

JUDGE JUSTICE: Please be seated.

JUDGE GOLDBERG: As I understand it, there are four parties that will have something to say on Tarrant County. Am I right about that? Mr. Gladden, Mr. York, Mr. George and the Bonner-Korbel group. Is that right?

MR. GEORGE: That's correct.

JUDGE GOLDBERG: We're going to give each of

you ten minutes if you want that. We hope you won't take that much time. We again plead with you, but we can only give you a maximum of ten minutes. Now, remember we do have some slight comprehension of this case.

Now, with that admonition, let's have it. Mr. Gladden, lead off -- ten minutes maximum.

ARGUMENT IN BEHALF OF THE ESCALANTE PLAN FOR TARRANT COUNTY

MR. GLADDEN: If it please the Court, I would like to reflect just a very brief comparison between the various plans. The Escalante plan, which the Court had the opportunity in the feasibility application to see and I am sure is familiar with that was presented to the Court in the original trial, does do, of course, the basic thing of establishing a primary district where a 72 percent minority exists. We feel like that 72 percent figure strikes a mean between Representative Finney's plan which is a 66 percent black without serious consideration for Chicanos and the 50.3 or 53 percent of the Republicans and their minority district. We did take into consideration the various factors that would tend to diminish or

reduce the voting strength of the ethnic minorities in that district and feel like the 57 and 59 percent that the La Raza plan or the Gaskin plan provides is something less than enough to -- that's a percentage of population -- Plans A and B of the Gaskin plan is 57 and 59 percent minority, and their two plans, we suggest to the Court, that that is substantially less than---.

JUDGE GOLDBERG: What do you have in comparison?

MR. GLADDEN: Seventy-two percent in our primary district and forty-three percent in our secondary district, and that's the one where all the testimony shows a transition or a migration of blacks into it since 1970. Our secondary district is 43 percent black, three percent Chicano with migration. Our primary district is 70 percent. We feel that that is a sufficient number as to afford them a meaningful opportunity, doesn't guarantee it, but does afford a meaningful opportunity. The Republican plan is far short with 53 percent. The Finney plan does take care of one black representative, does guarantee one black representative, but in so doing, it eliminates any meaningful participation or influence in any

other district. We suggest to the Court that this plan also -- our plan also took into account the poor Plaintiffs that we brought this suit on behalf of in the four districts with low income, one of them black, one of them potentially black and two white. None of the other districts took into consideration those Plaintiffs and, as pointed out in our presentation, this Court should not change their circumstancefrom a multi-member district submergence into a single-member district submergence in the broad middle-class white community. The Gaskin plan does do that. Every one of their districts except the two minority districts are above $11,000.00, which is roughly the mean family income of our community. All the rest of the districts pretty well did that, too. That, really, in essence, is what we have to say. We think our plan is best. I'm sure everybody else thinks their plan is best. We feel like the Court should adopt the plan that best represents, I think, divergent communities of interest in the community. Some of the other parties think that you ought to homogenate them in nine districts as they have been homogenated in the multi-member district. That's our approach.

We ask the Court's consideration of those. I won't talk about specifics, because you do have the plans before you, and you can take a look at them.

Thank you.

JUDGE WOOD: Mr. Gladden, are any of the plans submitted unconstitutional?

MR. GLADDEN: Yes, I suggest most of them are except ours.

JUDGE WOOD: O. K.

(LAUGHTER)

MR. GLADDEN: If, Your Honor, this Court--and we don't know what the Court did, but if this Court bought my sale of poor whites being afforded constitutional rights, then most of them did not. In fact, all the testimony is nobody took into consideration the John Dillard community of low income white people. I suggest that they do have interests that should be protected under the Constitution and that none of those did, and we did show that they have been represented in the multi-member districts, so I would say yes.

JUDGE WOOD: You have answered the question. All the plans are unconstitutional except yours.

MR. GLADDEN: I don't know that they are,

but depending upon the Court's holding---.

JUDGE WOOD: Thank you very much, Mr. Gladden.

JUDGE GOLDBERG: Mr. Bonner, will you be the spokesman for your group?

MR. BONNER: Yes, sir.

ARGUMENT IN BEHALF OF THE GASKIN ET AL PLAN FOR TARRANT COUNTY

MR. BONNER: I'll make every effort to be as brief as possible.

JUDGE GOLDBERG: Thank you.

MR. BONNER: Summarizing the argument for our plan, we want to state to the Court that ours was an effort to fashion a redistricting plan that would attempt to start to correct what we see as decades of political deprivation that has been visited upon two particular segments of the community, the black and Mexican-American, who by all testimony here have been virtually totally excluded from the political process, starting from slate-making through the elections, for reasons which we believe are because of race and color.

In order to deal with this history of exclusion and isolation, political isolation, we

have proposed a plan which creates two districts, in which the minority communities composed a majority, an American majority, and also three other districts in which the minority communities have input or voice in determining who will be elected from those districts. We have not made the claim or have not argued that black or a black person is entitled to be elected. We have simply stated or tried to present a plan that would allow them to have a maximum possible access to the political system.

We feel that most of those plans have at least one thing in common. They virtually ignore the viable interests of the Mexican-American community in Fort Worth. Everybody's plan at least makes a token effort to guarantee one seat to part of the black community, District 32. We would ask that the Court not be trapped into the stereo typical thinking that the Mexican-American community in Tarrant County is so dispersed -- you have the figures before you -- there is testimony that those are viable communities, recognizable communities, whose interests are legion.

Most plans do not allow the brown community any sort of political leverage whatsoever. Ours

attempts to do that. We would also point out to the Court that most of the plans, particularly the plan submitted by the State and by the Republican Party, isolates the black community further. One district where most of the blacks are, they are allowed to elect one representative. We submit that this basically takes the blacks off the backs of all other representatives. They have one representative who accounts for their interests. None of the other representatives has to worry about the black community or perhaps about the vote of one black legislator. We feel with the possibility of two representatives speaking for these two communities, well, clearly their political leverage is doubly enhanced.

Finally, in response to Mr. Gladden's point about the comparatively low minority percentages, it is true that the black and brown communities have in the past participated in elections with say less fervor than the other communities. We submit that this lack of participation can be directly attributed to their realization that they were unable to determine or even significantly influence the outcome of elections. We also submit that experience in those other districts of the

state that are now divided into single-member districts would demonstrate that when those communities realize that they do have a voice in determining who will speak for them in Austin, the voter turnout increases. Interest in the elections is enhanced. Participation increases so that you don't really need a 72 percent majority or 68 percent majority. It is entirely conceivable that a simple majority of 57 or 59 percent, as we proposed, would be sufficient to allow these communities access to the system.

That is our presentation, and we urge adoption of our plan.

JUDGE GOLDBERG: Thank you, Mr. Bonner.

Mr. George?

ARGUMENT IN BEHALF OF THE REPUBLICAN PLAN FOR TARRANT COUNTY

MR. GEORGE: Quite briefly, Your Honor, the Republican plan that was presented before the Court constitutes in our opinion the plan that most fairly takes into consideration all the interests of Tarrant County than any plan presently before you.

Mr. Bonner says that we isolate the black

community into one district. I believe if he rechecks his figures, he will note that we have significant black input into three districts, one district that constitutes 48 percent of the population, one district in which they constitute approximately 27 percent of the population and the southern edge or area of Tarrant County which we talked about as being a black, middle-class migration area. We are talking about a third area in the core city where the total minority population constitutes five percent of the population, all of which, if Mr. Bonner's theory about the voter participation of these groups and their impact on the election is correct, would, it would seem to me, indicate under the Republican plan the blacks and Mexican-American residents of Tarrant County would have more leverage than under any of the plans that they presented.

Second, we would like to present that our plan is from an administration standpoint, from the community integrity of the political subdivisions, from the geographic considerations, lakes, freeways, railroad tracks and other geographic considerations in the practical world of administration of operating and administering an

election are important, is by far the most -- takes into consideration these factors by far more than any of the other plans presented.

And finally, we would like to point out that the Republican Party in Tarrant County is just a party of white upper-class people. The majority of our nominees for the Legislature in 1972 were black, and the Republican Party has significant interest in seeing that the black, particularly the black middle class, has a significant input into the legislative process Tarrant County.

Thank you.

JUDGE GOLDBERG: Thank you.

Mr. York?

Oh, you want to say something, Mr. Korbe

MR. KORBEL: I think most everything has been said today that was planned regarding the plans presented for Tarrant County. I would l to inform the Court, however, that the Plaintif Moreno et al strongly urge the Court to adopt plan submitted by the Intervenors Gaskin.

MR. RICHARDS: We have previously indic our support for the Escalante plan.

ARGUMENT IN BEHALF OF THE STATE'S PLAN FOR TARRANT COUNTY

MR. YORK: May it please the Court, the United States Supreme Court in the case of Weiser versus White recognized that the issue of legislative intent was a controlling issue in the adoption of plans by a Court sitting as this Court is sitting, and in that case the Court was presented with two alternative plans, one Plan B which was very similar to Senate Bill 1, the legislative effort to redistrict the state into congressional districts, Plan C, which had deviations which was acceptable and was vastly different from what the Legislature had done.

The three-judge court adopted Plan C, as this Court is aware, and was held by the United States Supreme Court to have been in error in doing that principally because there was another plan available, Plan B, which almost identically tracked what the Legislature had done, except it reduced the deviations to a point which was constitutionally acceptable, and the United States Supreme Court said that the Court below erred in adopting Plan C and should have, given the alternative, adopted

Plan B, which tracked the legislative intent
think that this Court---.

JUDGE GOLDBERG: What legislative int
do we have here? What can we track?

MR. YORK: You have the intent eviden
by the testimony given by Representative Fin
Your Honor.

JUDGE GOLDBERG: You mean to suggest,
York, that the Supreme Court of the United S
was talking about the representatives from T
County when it made that statement?

MR. YORK: I don't believe he's ever
any of them or they him.

JUDGE GOLDBERG: Well now, you know t
wasn't the intent of the question. Don't yo
the Supreme Court of the United States was r
ring to the legislative action as a body?

MR. YORK: I think that's correct, Yo
Honor.

JUDGE GOLDBERG: That's all I mean.

MR. YORK: But the point we made thro
Mr. Finney's testimony and which I think the
Court could almost take judicial notice of,
that in the legislative reapportionment proc
in the great majority of cases what happens

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when a delegation from a county agrees upon -- will be agreed upon by the Legislature as a whole, and taking it in that light, we do have the intent of the Legislature in that regard.

We have before this Court testimony from Representative Finney, speaking for a vast majority of the representatives of the District 32 that was in question, a plan adopted by the Governor of the state and by the Secretary of State and then advanced to this Court as their plan. It is a plan, Your Honors, which does not take into account economic interests, because economic interests have never to my knowledge been held by any court to be a standard by which reapportionment of this sort should be done. It also results, Your Honor, in fewer pairings, fewer pairings of incumbents than any other plan which is before the Court, I believe, and the Weiser Court last summer recognized that the protection of incumbency is not a vice in a reapportionment plan and that it is a legitimate end and a legitimate object of the drawing of reapportionment plans.

JUDGE GOLDBERG: Do you think if the order of this Court had a provision in it that a

representative could run from any part of the district for this election, that the current problem might be diminished?

MR. YORK: I would suspect that it would, Your Honor.

JUDGE GOLDBERG: Proceed.

MR. YORK: This plan also results in and it is a contiguous plan, as the Court can see. It is, I should say, a compact plan, a plan which has districts that are drawn in a compact way which have not been characterized to my knowledge as being gerrymandered. It does operate in District H to virtually guarantee, I suppose, 66 percent black, the election of a black representative. Blacks constitute some 12 percent of the population of the county. If they were successful in electing a black representative, they would have some one-ninth of the representatives in a county in a district in which they represent some one-ninth of the population.

You have heard the testimony from Representative Finney that the Mexican-American population in Tarrant County is not capable of being grouped in his view into a district which would ever insure them of the election of a representative

of their particular ethnic group.

And finally, there is a secondary district, if we can use that terminology, in the Tarrant County plan. It has been marked as B-W-1, which is about 25 percent minority in its makeup. This differs from the secondary plan proposed by the Gladden group. They have about 40 percent in their so-called secondary district. Those percentages, we submit to Your Honors, are not markedly different, and where there is a clear showing of the intent of the people elected from, as Mr. Finney put it, that group is elected from the whole county or from the whole district, and they have spoken here to the Court as representatives of that whole district, having been elected by them, whereas, others who have come before the Court have come representing this group or that group or another group. We think the Court should adopt the plan marked B-W-1, the plan of the Governor and the Secretary of State.

Thank you.

JUDGE GOLDBERG: Thank you very much, Mr. York.

Now, with respect to the next county, which is Jefferson, how much live testimony have we got

here?

MR. RICHARDS: We plan now to call a witness apparently that we had not originally intended to, because the State has indicated they intend to do so.

JUDGE GOLDBERG: So you have one?

MR. RICHARDS: I have one.

JUDGE GOLDBERG: Mr. George?

MR. GEORGE: Yes, if there are going to be live witnesses from Jefferson County, I have one witness. We had originally planned to stipulate to the demographic facts and just argue the case.

JUDGE JUSTICE: Why can't that be done?

MR. RICHARDS: Because the State won't agree.

JUDGE GOLDBERG: How many live witnesses do you have?

MR. YORK: We have only one, Your Honor.

JUDGE JUSTICE: Why can't there be the stipulation?

MR. YORK: I'm not really advised what the stipulation is.

JUDGE JUSTICE: Why listen to three witnesses if you can stipulate?

MR. GEORGE: We had suggested to the State

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and Counsel for the various Plaintiffs had agreed on the non-Tarrant County counties that we could simply -- Counsel could stipulate the demographic facts of where the various people lived and what racial or ethnic group they belonged to and simply explain the plan from the podium to the Court. I was informed by Mr. York on Friday that they wished to present live testimony, so I assumed that stipulation would not be available.

MR. YORK: Your Honor, we are aware of the problems that face the Court in terms of time, but we also believe that we would be falling down in our duty if we didn't afford the people who drew the plans that had been adopted by the Secretary of State---.

JUDGE GOLDBERG: All right, proceed.

MR. RICHARDS: May it please the Court, one brief matter -- the plan that we filed, the Wright Intervenors plan in Jefferson County has also been adopted by the (word unintelligible to reporter) Plaintiffs in Jefferson County, and so to that extent represents the interests of those Plaintiffs.

We would call William Oliver to the stand, please.

TESTIMONY PRESENTED CONCERNING
JEFFERSON COUNTY

WILLIAM BOYD OLIVER, III,

a witness called by the Plaintiffs, having been first duly cautioned and sworn to testify the truth, the whole truth, and nothing but the truth, testified as follows:

DIRECT EXAMINATION

BY MR. RICHARDS:

Q Could you give us your full name, please, sir?

A William Boyd Oliver, III.

Q Mr. Oliver, did you not previously testify from the stand in this case, but you did give a lengthy deposition, did you not?

A That's correct.

Q And you are the same Reverend Oliver whose deposition was offered in evidence in this case?

A That's correct.

Q Can you tell us what role you played and

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what role the black community of Jefferson County played in formulating the proposal which we have offered in evidence, or offered the Court as our proposed plan for Jefferson County?

A Yes, I can. I for a little over ten years have been a member of the Executive Board of the National Association for the Advancement of Colored People, Beaumont Branch, and for some time, as the question of redistricting came up, we felt it incumbent upon us to study the problem and to be prepared to make some suggestions when and if the occasion arose. As this case began to proceed, we then began to work on a specific plan of redistricting for District 7, which covers a major portion of the people in Jefferson County.

Q That's the three-member district in Jefferson County?

A That's correct, multi-member district in Jefferson County.

After preparing two plans, we then mailed out letters to a large number of what we considered the black leadership across the county, both the south county in Port Arthur and in north county, Beaumont and called a public meeting and asked everyone to come and discuss the various options as they affected the black community.

At that meeting a plan was unanimously

adopted, and that plan was later forwarded to you for presentation to the Court.

Q And that is the plan which appears here, as we have put it up on the board. Is that correct, Mr. Oliver?

A That is correct.

Q In order to understand Jefferson County's problems in terms of redistricting and the color combinations you have on the plan, a portion of Jefferson County which is reflected on the plan in yellow has been removed previously and attached to Legislative District 8. Is that correct?

A That is correct, and the other portion---.

Q That is a portion here which is part of Census Tract 112. Is that correct?

A That is correct.

Q That's heretofore been taken away from the county and tied to Legislative District 8, which is a single-member district. Is that correct?

A Yes, it is.

Q The large white area of Jefferson County which appears on this map has similarly been removed and attached to Legislative District 5. Is that correct?

A That is correct.

Q So, as I understand -- and that, too, is a single-member district that involves two or three rural counties. What are those, by the way, do you know?

A Hardin and Jasper.

Q At least, if I am clear, when you began to deal with Jefferson County problems, you were dealing with only a portion of the county. Is that correct?

A That's correct. We were dealing with the portion of the county called District 7 in the shape of an hourglass, by the way, and very narrow in the middle, presenting a serious problem.

Q Now, you have created or we have proposed to the Court three single-member legislative districts in Jefferson County, and they are reflected there on the colored map. Is that correct?

A Yes, they are.

Q Now, I have shown you, have I not, a letter from the attorney for the Republican Party, criticizing our proposed legislative plan because it did not create a majority black district. You have seen that letter?

A Yes, I have.

Q And I suppose he had specific reference to our proposed 7-A, the blue area on the map. Is that correct?

A Yes, I believe it is.

Q And I think his letter indicated that under census figures contained only 48 percent, I believe, black?

A 48.88.

Q All right. Can you tell

community viewed it and as you viewed it, what the answer to that particular contention is?

A The answer is more than one thing.

Q All right.

A First of all, we dealt with in drawing the districts communities of interest, shopping patterns, school habits, racial composition and other concerns, and in drawing this, we attempted to have districts to the best of our ability within the hourglass that we were working with to have compact districts. In doing so, the big district or 7-A, the one that has the highest number of blacks in it, what we knew, in addition to the fact that the '70 census reflected a 48.88 percent black population, was that there had been significant out migration in that proposed district, as well as some influx of new black families from rural areas plus increase in black population that's greater than the increase in white population, and to substantiate that and to measure tc some extent the magnitude of that out migration we have done a little survey both -- first of all, visually, and in other more systematic ways. We took the school census figures for the school year '69-70 and compared them with the school census figures for the current year, '73-74. We did this in both the school districts and examined each school that is within those districts. Especially important to that analysis were the schools

100 percent black already, because they would not indicate migration. We looked at ten schools in the Beaumont Independent School District and six school districts in the South Park School District. We did the percentage increase in black, analyzed that in the Beaumont Independent School District. The percentage increase during the period since the '70 census was 23.5 percent.

Q That would be in large measure in the area of the (indicating)?

A The northern part generally of that, though the school district lines do not correspond to that.

Q I realize that.

A And in the South Park Independent School District the increase in black scholastics or enrollment was 17.78 percent. The average over the entire proposed legislative district was 21.35 percent. I might add one other note to that. That also includes three schools which are physically outside the district but do serve schools within the district, and both students within and without. Therefore, their percentage increase is not quite as high as those who are physically in that district. If you utilize that figure to interpolate in terms of what has happened in terms of migration, you would discover the district is 70 percent plus black.

Q That's District 7-A?

A That's right. Now this figure, I think, can be supported to some extent by looking at also the new permits -- the permits for new home construction issued by the City of Beaumont, and based on that, we have judged that we have been very conservative when we say that this newly drawn district is now 65 percent black and, therefore, we feel like the contention of the Republican Party in Jefferson County is not correct in that regard.

Q And the proposal that we have made to the Court is a proposal that represents the view of the black community of Jefferson County. Is that correct?

A Yes, I think it does. I know of no other effort to draw together a wide cross section of leadership in public meetings and to spend a great deal of time in preparation and adoption, and we adopted it unanimously. Since that time there has been a great deal of discussion at other meetings within the black community.

Q So, as I understand then, 7-A, the blue portion of our proposed district, which, I suppose, by the way, does follow census tract lines, does it not?

A It does generally. There are places where it does not. There are places where it follows census block lines, because the census tract lines do not always relate to communities of interest and the question of compactness and the question of the distribution of our black

population.

Q The green district, which is our proposed District 7-C, why was it so constructed, as you viewed it?

A Well, it, again, dealt with the two things I mentioned. We had a strange, shaped multi-member district to begin with. We drew two districts which we believe to be compact and to have a common community of interest. That means one of the districts in that process, one of the three, does not look nearly as compact as the others, and without doing damage to another important criteria of redistricting, which I think we could not have drawn three compact districts with the same community of interests.

Q The green area is Port Arthur, I take it, and the mid-county towns. Tell us those towns.

A Port Neches, Nederland, Bear Ridge, Griffin Park, Groves---.

Q And Port Arthur?

A Port Arthur.

Q And that essentially is an area that is all white. Is that correct?

A That's correct. The minority population is negligible.

Q Then our District 7-B, which is the pink area on the map, is the excess. Is that correct?

A Generally that's right.

Q It ties together parts of Port Arthur and Beaumont?

A But there are ways in which the community of interests are the same there, as well. For instance, in Census Tract 11 in terms of its past voting record, in terms of its shopping habits, in terms of the type of home construction that is there, it has a community of interests with the western part of the City of Beaumont and, therefore, it is included in that district. So the same kinds of things were maintained. In the lower end of the pink district those same criteria were used to keep West Port Arthur, which has a community of interests, black, primarily, separate and distinct from the community of interests of East Port Arthur and mid-county, and it's all kept together and compacted.

Q Now, our map has a little option in it involving 11 people, as I understand. Is that right?

A That's correct.

Q That is this huge census tract -- a portion -- a census tract which, I guess, is all marsh land. Is that right, if it just has 11 people in it?

A It's not very occupied. It involves the Spindletop Oil Field.

Q Oh, I see. So at all events, the proposal we made for the purpose of configuration, you could move that tract into the major district and that would come out of the

existing District 5. Is that right?

A Yes.

Q It involves the shirt of 11 people?

A We suggest that as an option simply because of its cosmetic effect, I think, on the shape of the district. It is not significantly important, because the district is contiguous anyway without doing that.

JUDGE GOLDBERG: We're running a lot of contests, but beauty doesn't happen to be one of them.

(LAUGHTER)

Q You have had a previous opportunity to examine the Republican plan which has been filed in Jefferson County. Do you have any comment as to it in terms of the matters we have been talking about?

A Yes, I have several comments. The first is that it seemed a little strange to me that they felt the obligation to draw a district of heavy minority representation, and they felt better competent to do that than the black community itself, which had suffered from the discrimination from the multi-member district, but, most of all, and the most important, it seemed to me, their plan begins to alter in significant ways District 5, which is a single-member district, and I think the danger of the Court beginning to alter single-member districts, you're

subject to the domino problem if you begin to alter single-member districts, and their plan also draws a very strange black district that's heavily black that I think has got a horseshoe at one end of it and runs from north to south, and it seems to me to be more subject to the whole question of gerrymandering than any plan I have seen.

Q It does in large measure, though, alter the lines in Single-Member District 5. Is that correct?

A Yes, it does.

Q And incorporates portions of that district into one of their new districts and, I guess, takes some out. Is that correct?

A That's correct. Yes, it does.

Q You had a chance, I know just momentarily, this morning -- we have been told the State of Texas and the Governor has adopted a plan that has been sponsored by some County Commissioners in Jefferson County. Did you have an opportunity to see that plan this morning?

A Yes, I have, and tried to study the figures and map with that plan.

Q First, it redraws both District 5 and District 8, as well as creates single-member districts, does it not?

A That's correct.

JUDGE GOLDBERG: Give me that question again.

MR. RICHARDS: Excuse me.

Q The County Commissioner plan now adopted by the Governor not only creates single-member districts, but it redraws District 8 and District 5, does it not?

A Yes, the point at which it does that removes sections of Jefferson County from District 8 and puts them in one of the single-member districts in the plan. It significantly alters the north part of District 7, putting it into District 5. It also takes in a section of the city limits of Beaumont in District 5 and includes it in one single-member district.

Q What does it do for the black minority of Jefferson County and the proposed three single-member districts?

A I think that that in my judgment is the part that is unconstitutional, because what it does it provide -- and I'll read their own figures -- provides 20.9 percent in one district, 30.9 in another and 22.8 in the third, which, in effect, would simply mean that if that plan is adopted, the black community might as well not register or vote because of all the testimony you have heard in this case.

Q In your view does the Governor's plan do anything to remedy any of the past discrimination against blacks in Jefferson County?

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JUDGE GOLDBERG: Answer that question without being a judge.

(LAUGHTER)

Q In your opinion.

A Does it do anything?

Q To remedy it.

A Absolutely nothing.

MR. RICHARDS: That's all the questions we have, Your Honor.

JUDGE GOLDBERG: Mr. George?

CROSS-EXAMINATION

BY MR. GEORGE:

Q Mr. Oliver, my name is Jim George, as you know, and I represent the Republican Party. A few very brief questions.

Let's talk about basically the plan that you testified that a metting of black leaders prepared for Jefferson County.

First of all, not to quibble about it, but were the members of the Republican Party who were black in Jefferson County there?

A I only know of two, and the two in Beaumont

have not participated in any community meeting, because we have not been able to get them out. There is one who is questionably a Republican in Port Arthur. We invited him. His statement to us was that he is an independent this year, but he was invited.

(LAUGHTER)

Q The black Republicans were invited but did not participate?

A No, my testimony is that two of them were not invited, because they have never been to any of the community meetings.

Q O. K., but one was?

A One was invited, that's correct.

Q McElroy was?

A That's correct, Mr. McElroy was.

Q And he said he's an independent this year instead of a Republican?

A Well, in regard to the Legislature, that's correct.

Q O. K.

A And we have met with Mr. McElroy regarding this plan.

Q O. K., the second question is in regard to the districts drawn, you say on the basis of your evidence that what is now the blue district is 70 percent---?

A I would rather understand it as 65 percent.

Q Sixty-five percent black. You said that was a conservative estimate, and I believe you said the highest was 70?

A Yes.

Q That is based upon various factors which you recited. Do you have an estimate -- would you make similar estimates as to the district that you said was 61 percent for the Republican plan, how heavily that would be black now on the basis of the same polls? I assume you applied the same information.

A Yes, that would increase some, too. I do not have the exact figure, because I have only seen the Republic plan -- I did not have a copy of the plan to study by census blocks so that we could do any detailed analysis, so I had to make very general conclusions.

Q O. K., let me ask you a couple of other brief questions. You testified in your deposition in this case that there was a race by a Mr. Elmo Willard for the County Commissioner's seat in Jefferson County. I believe that the district in which he was living as a County Commissioner's district was a single-member district. Would you estimate that the population of that district was more or less -- the black population was more or less than the total population of Jefferson County?

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A Are you asking the question, was percentage in Commissioners Precinct 4---?

Q Yes.

A --- approximately the same as in the whole county?

Q Yes.

A Yes, approximately the same as the percentage in the entire county.

Q How much is the percentage in the entire county?

A It's 29-point something.

Q And that was no more than that?

A No, that was about 30 at that point.

Q You indicated in that respect that even with 30 percent of the population there was a significant white racist campaign, I believe---.

A Yes, that's correct, and I attempted to cite the instances of which I had personal knowledge.

Q Let me ask you -- can you compare the size of the black families, particularly those rural families who recently came in from the country that you testified to, as compared to white families that are in your blue district?

A I have not analyzed the question exactly that way.

Q You have not, O. K.

A But I can generalize based on my own experience, and that is that they are slightly larger.

Q What about the average age of black people as to the white people? Would there be more 18-year-olds and over or less 18-year-olds?

A Are you talking about the county or the proposed district?

Q No, I'm talking about in your district.

A Within the district the ages are approximately the same, and what makes that occur is that that district includes Lamar University, so there's a significant number---.

Q I suppose all the students at Lamar are over 18?

A Yes.

Q Are you familiar with the electoral results in congressional districts, bearing approximately the same population black-to-white ratio as you suggested in Jefferson County and other Old South states that have similar -- I believe that the testimony here is that this is an Old South situation with heavy racial tensions. Do you have any---?

A I read those in your letter. That's my only acquaintance with them.

MR. GEORGE: O. K., that's all I have.

Thank you very much.

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JUDGE GOLDBERG: Mr. York, are you the ---?

MRS. LEVATINO: We have no cross-examination.

JUDGE GOLDBERG: No cross-examination?

MR. RICHARDS: You may step down. Thank you.

JUDGE GOLDBERG: Anything further, Mr. Richards?

MR. RICHARDS: Nothing further, Your Honor.

(WITNESS STANDS ASIDE.)

JUDGE GOLDBERG: Mr. George?

MR. GEORGE: I think mine is not quite as pretty, but if that is still not a relevant consideration, I'll be pleased.

I would like to call Mr. Richard English to the stand.

RICHARD ENGLISH,

a witness called by the Plaintiffs, having been first duly cautioned and sworn to testify the truth, the whole truth and nothing but the truth, testified as follows:

DIRECT EXAMINATION

BY MR. GEORGE

Q Mr. English, would you state your name, please?

A Richard English.

Q What is your occupation?

A I am a Research Director for the State Republican Party.

Q Do you have any familiarity with Jefferson County?

A I lived in Jefferson County for approximately 18 years continuously and also during the summers during my college education.

Q Did you prepare what is described as the Republican reapportionment plan for Jefferson County.

A Yes, sir, I did.

Q O. K., let me just let you run briefly through the interests that you considered in drafting that plan.

A First of all, I considered the quality of population among the various districts. Second of all, I wanted to make sure that I created a district in which a vigorous advocate of the interests of black people could be elected and where their interests would be represented. Third of all, I considered a community of interests in all of the districts in all of Jefferson County, and, fourth of all, I considered compactness.

Q O. K. You started out with a rather strange-shaped district, as Mr. Oliver testified?

A Yes, it is a very strange-shaped district. However, this district includes approximately 84 percent of the black population of Jefferson County. It is itself 70 percent black. I feel that---.

Q Now, you're talking about this District 7-B here (indicating)?

A Right, the blue district.

Q The multi-member districts were orange, blue and purple on our map. Is that right?

A That's correct.

Q O. K. Let me ask you a couple of questions.

You talked about the changes in District 5,

which is shaded here in green that we made in preparing the map. Mr. Oliver testified he made changes here (indicating) where it ended up with 11 people being changed to this big census tract (indicating).

Can you tell me what the net effect of your changes were?

A The net effect of the population in District 5 going from the present district to the proposed district in this plan would be 836 people. In other words---.

Q Increased---?

A Increased into the multi-member district.

Q Which, I believe, on total was slightly over. It had too few people in it for three districts to start with. Isn't that correct?

A That's correct.

Now, this proposed District 5 will have absolutely no ripple effect, as it is called in East Texas, because the new district will have a population of 75,850, which is well within the bounds.

Q Let me ask you -- I believe the Court has before them, and we won't burden them too much, but very briefly indicate the economic demographic characteristics of the three districts just very briefly.

A District 7-A, the orange district, is primarily composed of the white people in Beaumont, Texas, and

also includes the outlying rural area, which is mainly centered around the rice-growing industry now. This plan reunites Census Tract 3, which very definitely is the center of the community of interests.

Q Which had been previously cut up in District 5 and around---?

A Correct. This census tract had been split up previously. I would like to note that the plan submitted by the State of Texas also reunites the census tract. We have also added a portion of an outlying rural census tract that is rapidly urbanizing, and that would be on the western edge of Beaumont.

Q O. K.

A Now, going to the next, the blue district, 7-B, this district, of course, is the district which most probably would elect various advocates of black interests. I won't discuss that any further. I think it is united under one one community of interests.

Q Just a minute. That's the black community both of Beaumont and Port Arthur where the other plan divides those groups, rights?

A This is correct.

Q And 7-C?

A 7-C is united around a largely white population -- I believe it is 99 percent white, and it is a

labor community, virtually 100 percent blue-collar labor.

Q You have heard references to the letter that I filed before a notice of this hearing in connection with Jefferson County plans with the Court. In that letter you heard references to the various congressional districts in Mississippi, Tennessee, North Carolina, et cetera, which I referred to.

Could you very briefly indicate to the Court if you have examined the census data relating to those districts and the black-white population ratio and give the Court a very brief account of your findings?

MR. YORK: Your Honors, we would object to any evidence about congressional districts in Mississippi and any other state as being irrelevant to this controversy.

MR. GEORGE: Well, if I may respond, Your Honor, we want to indicate the propensity of the Old South model, which is the evidence in this case, to elect black people, given various population ratios which are very relevant to the plan.

JUDGE GOLDBERG: We've been pretty liberal about letting everything in. We'll let this in, too, on the basis that he is an expert on the Old South, as distinguished from the New South.

MR. GEORGE: Thank you very much.

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A Let me point out at this time -- I think it would be well to note the population of East Texas was largely settled by people from Alabama. This has been shown in historical geographical studies conducted over a period of years by historians at the University of Texas.

Now, going on to the congressional districts, which I examined throughout the South, I found in Mississippi that there were three congressional districts in electing representatives to the 93rd Congress where the percentage of blacks was more than 40 percent. As a matter of fact, one of the districts had a population of 46.3 percent. However---.

Q Excuse me. That's based on the '70 census figures?

A This is based on the 1970 census.

Q The same information filed with the Court other than Mr. Oliver's testimony?

A This is correct. Now, none of these districts has elected a vigorous advocate for the interests of the black people to the Congress, and also another district that is relevant here would be the 8th District of the State of Tennessee where the City of Memphis -- this district contains about 47-1/2 percent black people and yet, they have not elected a vigorous advocate of black interests in that area either, so my findings from examining these congressional

districts would be that there is no guarantee simply because you have a large black population in this range. There would be no guarantee that a vigorous advocate would be elected from such a district in an Old South constituency.

Q One final question to make very clear to the Court that our plan is based upon the census data contained in the census reports and not upon any independent survey and population estimates that you have made---.

A That is correct.

MR. GEORGE: That's all I have.

JUDGE WOOD: Let me ask you one question.

I believe that the Plaintiffs' expert who testified just before you testified that the Republicans' and the State's plan were both unconstitutional. Do you think your plan is unconstitutional?

MR. RICHARDS: Your Honor, I think he did so with respect to the State's plan. I think he did not with respect to the Republican.

JUDGE WOOD: All right, you think your plan is constitutional?

THE WITNESS: Yes, sir, I do.

JUDGE WOOD: Do you think the State's plan is unconstitutional, as the Plaintiffs' expert has testified?

THE WITNESS: Well, my opinion of the State's plan -- I will not try to discuss -- let me just state this. I believe that the State of Texas plan shows an insensitivity to the representation of blacks.

JUDGE WOOD: But you think it could be constitutional, or do you know?

THE WITNESS: Well, I think---.

JUDGE WOOD: Or have you studied their plan?

THE WITNESS: I have studied their plan. I would not want to indicate an opinion on the constitutionality of it because -- well, I believe it may be unconstitutional.

JUDGE WOOD: What about Mr. Richards' plan, the Plaintiffs' plan? Is it constitutional in your opinion?

THE WITNESS: I believe it is probably constitutional but---.

JUDGE WOOD: Thank you very much.

MR. YORK: Your Honor, while ago, the witness, Mr. Oliver, who is a preacher by profession, gave his opinion about constitutionality. I did not object to it at that time---.

JUDGE GOLDBERG: Mr. York, we're not going

to put a robe on anybody unless he qualifies, or give him a license to practice law in this courtroom, but in the interest of time I just thought I would let it go on in. Believe me, we're going to take a hundred percent discount on a non-lawyer's opinion as to the constitutionality of anything.

MR. YORK: That's why I did not object at the time.

MR. GEORGE: I just wanted to point out that Mr. English has graduated from law school.

JUDGE GOLDBERG: Well, did you qualify him as such?

MR. GEORGE: No, I did not, and don't intend to.

JUDGE GOLDBERG: Even so, I wonder to what extent his expert testimony would be admissible in the context---.

MR. GEORGE: On the constitutional issue, I believe that's a relevant issue.

JUDGE GOLDBERG: In any event, we've tried to be patient. Now, let's go on to something else.

MR. RICHARDS: Just briefly, Your Honor.

CROSS-EXAMINATION

BY MR. RICHARDS:

Q Mr. English, I was having some trouble being certain just what your proposal does with respect to existing District 5 and which census tracts you have altered.

Can you just briefly summarize those for us of what you have done under your proposal?

A Basically, I took the rural, northmost census tract north of Beaumont, and this previously was in the multi-member district, and I also included two census tracts from the City of Beaumont and put them in the present District 5, in what is approximately present District 5, put that into the district which includes Hardin and Jasper Counties. Also---.

Q Am I right that you came down in here to portions of Census Tracts 6 and 9? Is that right?

A That's right.

Q And they were previously in the multi-member district. Is that correct.

A That's correct.

Q And you have now tagged them into Hardin County. Is that correct.

A That's correct.

Q And I guess you have done the same with this area in Census Tract 1. Is that correct?

A That's correct.

Q You have taken that out of the multi-member district and tagged it into the single-member district up in Hardin County?

A That's correct.

Q What are the compensating tracts which you made to, you know, flesh out the---?

A South Jefferson County part of the district, southwestern part, which is geographically the greater part of the district, goes two extremely large, largely uninhabited census tracts were put into the Beaumont District -- into the Orange District (sic).

Q That would be these huge districts -- that would be Tract 113---?

A Right.

Q ---and 116, and I guess 115 were all moved from the single-member district up in District 5 into your plan, which would now be the three-member district created by this Court. Is that correct?

A That's correct.

MR. RICHARDS: Thank you very much. No further questions.

JUDGE GOLDBERG: Mr. York?

MRS. LEVATINO: No questions, Your Honor.

JUDGE GOLDBERG: Any questions?

MR. YORK: We have none, Your Honor.

JUDGE GOLDBERG: All right, Jefferson is a little smaller county than Tarrant.

JUDGE JUSTICE: Does the State have some testimony?

MRS. LEVATINO: Yes.

JUDGE GOLDBERG: Oh, I'm sorry.

JUDGE JUSTICE: Please stand down.

(WITNESS STANDS ASIDE.)

MRS. LEVATINO: The State would like to call Mr. Pike Powers.

PIKE POWERS,

a witness called by the Defendants, having been first duly cautioned and sworn to testify the truth, the whole truth and nothing but the truth, testified as follows:

DIRECT EXAMINATION

BY MRS. LEVATINO:

Q Would you state your name for the Court, please?

A Pike Powers.

Q What is your profession, Mr. Powers?

A I am a practicing attorney in Beaumont, Texas, and a member of the State Legislature.

Q How long have you been licensed to practice law?

A Since 1965.

Q And how long have you served in the State Legislature?

A I was elected to succeed the Honorable Will Smith after he died in a special election in the summer of 1972.

Q And you have served continuously ever since?

A Yes.

Q Are you familiar with this plan which has been submitted on the Court's docket as Docket Entry Submission 171?

A Yes, I am.

Q Is this the Nelson-Brocado-Webber (phonetic) plan?

A Yes, I think it was inadvertently referred to earlier as the County Commissioners' plan. As I understand it, they are just three private citizens and have no relationship whatsoever to the county.

MR. RICHARDS: I apologize. I thought they were County Commissioners.

JUDGE GOLDBERG: Let me see. Has that exhibit been introduced in evidence?

MRS. LEVATINO: It was one of the sealed plans, Your Honor.

JUDGE GOLDBERG: One of the sealed plans?

MRS. LEVATINO: Right.

JUDGE GOLDBERG: And now you're taking it and interrogating the witness on it, and you have identified it in some way?

MRS. LEVATINO: As a docket submission. We will identify it as a Defendants' exhibit.

JUDGE GOLDBERG: All right.

Q Is this the plan that has been agreed upon by the members of the Jefferson County delegation to the Texas Legislature?

MR. RICHARDS: We would object to that. If she's going to get into that, let's get all the members of the delegation down here and find out what they have agreed to.

Q To your knowledge is there any objection from the members of the Jefferson County delegation to this plan?

A Mrs. Levatino, I am here on behalf of the Jefferson County delegation. I am authorized to speak for them. We construe that within the legislative terms to mean Districts 5 and 8, which at the present time also intrude into Jefferson County, so I speak for Mr. Doyle, Mr. Adams, Mr. Peveto and myself, as well as Carl Parker from Port Arthur. Parker has stated publicly that he does not endorse this plan, the so-called Nelson-Brocado-Webber plan, but he does not oppose it and does not in any way oppose the Court's consideration or implementation of the plan.

Q And this is the plan which the Defendants White and Briscoe have adopted as their plan?

A That's my understanding.

Q All right. I'd like to show you two

legislative documents right now. Would you identify them, please?

A Yes, ma'am.

What has been marked as Defendants' Exhibit 46 is House Bill 1319 by Representative Henderson from Houston, a Republican, which was introduced in the Legislature during the last session of the Legislature, the 63rd Session, and it was my understanding after several consultations with Mr. Henderson's office that this was the State Republican plan for redistricting in the event that it did emerge on the floor for debate, and it was so offered.

(HOUSE BILL #1319 -- was duly marked as:
DEFENDANTS' EXHIBIT NO. 46)

Q And the other one?

A The second one is Defendants' Exhibit No. 45, which was an amendment of the so-called Fort Worth-Tarrant County single-member district plan which, as Mr. Finney has already described for the Court, almost came to the floor several times, but was stalled on procedural maneuvering. This was an amendment by Representative Pitney from Houston, and it bears his initials, J.C.P. He gave this to me during one of the debates on whether or not the Fort-Worth Tarrant

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County plan would come to the floor. This also purports to single-member district all the counties in the state.

(AMENDMENT, FORT WORTH SINGLE-MEMBER DISTRICT PLAN -- was duly marked as:
DEFENDANTS' EXHIBIT NO. 45)

MRS. LEVATINO: These have been marked as Defendants' Exhibits 46 and 45, respectively.

MR. RICHARDS: Are you going to offer them?

MRS. LEVATINO: Yes.

MR. RICHARDS: I would like to have some clarification, if I may. Is the State adopting these as alternative proposals for redistricting?

MRS. LEVATINO: No, we are not adopting them.

MR. RICHARDS: We have no objection except that they are immaterial.

BY MRS. LEVATINO:

Q Have you examined the contents of these with regard to Districts 7, 5 and 8?

A Yes, I have. Both plans, both the so-called Republican plan introduced by Mr. Henderson and the amendment to the Tarrant County bill by Dr. Pitney, both are basically

the same as what has been proposed by Jefferson County delegation here today. In other words, they take Jefferson County the way it is now, District 7, and block it off into quadrants, north, middle and south, and that's essentially what has been done by the Jefferson County delegation.

For the edification of the Court -- and I think that it is pertinent at this time -- since you have asked about what did occur in the Legislature, we were prepared to single-member district our county as an amendment to the Tarrant County bill, assuming the thing did get on the floor for a vote. However, we were precluded from ever getting a chance to portray our intent by the same problem that prohibited Tarrant County from having a chance to single-member district their county, and our delegation was prepared to enact a plan basically similar to the one, as the one that has been introduced here this morning as the Nelson-Brocado-Webber plan and adopted by the State.

Q Turning to the plan itself, the comment has been made previously that this plan does alter both Districts 8 and 5, in addition to District 7.

Can you generally describe what census tracts are changed and also the effect that this would have on Districts 5 and 8?

A Let me first address myself to District 8, and I think what we have here is a simple housekeeping or

housecleaning type of procedure that is agreed upon by virtually anybody that has any knowledge about it. This anomaly, as I call it, is preserved in the Plaintiffs' plan described by Mr. Oliver and Mr. Richards. There are some 3,000 people roughly in Voting Precinct 74 or Mid-Countirs. It's commonly referred to there in yellow as Central Gardens. Right now this area is in Legislative District No. 8, and that was done at the time of Kirkwood versus Preeslar and other cases. Mathematical certainty was felt to be an overriding concern.

MR. RICHARDS: First, I want to object -- I don't believe the witness served on the Legislative Redistricting Board in drawing these plans, and we've got a lot of testimony about what that Board did in creating those districts, and I don't believe, unless you were a member of the Board, you would be qualified to testify to that.

THE WITNESS: I think I am qualified, Mr. Richards, to explain why this is in there, and if you don't want to hear it---.

MR. RICHARDS: Well, that is my objection, and I guess I will insist upon my objection.

JUDGE GOLDBERG: Well, we're going to listen to this witness to the extent that it is feasible to do so, Mrs. Levatino, but let's let

him get down to the real important reason for this and that and the other, and we don't have to go back into antiquity to come to the point that we've got to decide this case on. He obviously is of the opinion that he should use these other legislative districts. Let him tell us why and let's get down to it.

THE WITNESS: Thank you, Your Honor. I didn't mean to be expansive. I just feel in my opinion based upon my discussions with a number of citizens of Central Gardens and also in talking to Representative Peveto of Orange County, which is District 8, that there is no bridge or way across that river at that point that they would rather be represented by a Jefferson County man rather than an Orange County man. That's the sum and substance of it.

What this plan does or the third plan up here or the State's plan, it just simply gives that back to Jefferson County and still leaves Orange County with a population in a single-member district of around 71,000. There's about a four percent deviation, so it's a housekeeping move.

The second thing that I have reference to

is the line that Mr. English has already referred to in his testimony, and that is in Census Tract 3 in Beaumont. It straightens that line out to follow the city limits line of Beaumont. There are a number of people who feel very strongly about not being represented by the representative who represents Beaumont, and they have made that clear to all of us in the delegation, and what that constitutes is moving the north line in Census Tracts 1 and 2, which has a more rural identification with Hardin and the other counties, and it just means that the tracts are changed around. The net effect is none in terms of population deviation, but it simply reflects the interest of these two areas, Precinct 74 and Census Tract 3, wanting to be presented by different folks.

BY MRS. LEVATINO:

Q Mr. Powers, would you say that District 7, as proposed on that map, reflects or contains three communities of interest, that would be Port Arthur, the City of Beaumont and the Mid-County area?

A Yes, it does. And I suppose I am here today, Your Honors, to talk most about that. I feel very keenly, and my friends, Mr. Nisbey, Mr. Scott and Mr. Oliver on the

back row back there feel very keenly about the problems in our community, and if they were able to come to the stand, they would tell you that I have tried to be sensitive to those problems, but I think we're at a time when the proposal of uniting a large community of people in a gerry-mandered situation together is divisive of some of the things we have overcome in recent times, and I would submit to the Court -- and you have to be a magician almost to follow 7-A, 7-B and 7-C, because they are different on different proposals, but the one on the third map, the State's plan, does protect and preserve into compact, concise districts that do not basically violate the territorial and geographical integrity of Beaumont, Port Arthur and Mid-County as much as the other plans do.

At the same time they are not divisive. They do not pit blacks against whites, labor against management. They attempt to heal those wounds that have been there so long and that have been healed rather substantially in the last three or four years. I will admit that there have been problems. I would be the first one to admit that, but I submit to the Court that these plans bring all these things together, and this final point on Port Arthur - the west side of Port Arthur, which is in 7 -- it's in the Plaintiffs' plan, it's the lower part, Mrs. Levatino, I think, in pink. Right, that's the right side of

Port Arthur, and this is almost 100 percent black. Now, in the State's plan it is tied with Port Arthur. I don't think there is any secret -- I'm not fooling anybody that Port Arthur is becoming more and more black all the time and probably eventually will become a black city. It's listed in the '70 census as 40-something percent black and it probably will ultimately become more than that. I will simply submit to the Court that the real opportunity, the real community of interests for blacks of Jefferson County lies in the south part of the county. I'm not taking anything away from north county problems. They are there. I'm not disagreeing with some things Mr. Oliver said at all.

Q Mr. Powers, in the south county district, which is labeled District 7-C, what is the percentage of minority population?

A In District 7-C on the State's plan?

Q Yes.

A I would estimate that that is roughly 22 - 23 percent.

Q And District 7-B?

A That's roughly 30 or 31 percent.

Q And District 7-A?

A Twenty-one or twenty-two percent.

Q What is the black population or the minority population in all of those districts, what is presently

District 7?

A I don't really know exactly. County-wide it's 24.09 by the '70 census. Beaumont is roughly a third or less, and Port Arthur is 40-something percent.

Q These three districts that are represented in the State's plan, actually, each district does reflect about the percentage of minorities within District 7 as a whole?

A I think they do so, Mrs. Levatino. At the same time they compact and protect and preserve the territorial or geographic integrity.

Q The three districts that are created by this plan, what is their deviation from the state average?

A I believe the total of three is 2.06, which is less than the Plaintiffs' plan of 3.06, so there's less population deviation, and I might add the changes to District 5 out here do not alter it -- I think less than one percent or right at one percent, and District 8 around four percent, so there's no problem, as I see it, as a lawyer on the deviation problem or in White versus Regester.

Q One further question on the implementation of this plan. Are you familiar with or aware of what the State's plan will do with regard to voting precincts in Jefferson County? In other words, how many voting precincts will have to be changed if this plan is adopted?

A From my examination of the voting precinct map, the State's plan will only change one existing voting precinct, and that will be Voting Precinct 58, which is on the west side of Port Arthur.

Q Have you examined any of the other maps with regard to voting precincts?

A I have examined the Plaintiffs' map.

Q By the Plaintiffs, are you referring to Plaintiff Nisbey's map?

A That is correct.

Q O. K.

A And I discussed the matter with County Engineer Howell, and he tells me that that plan will alter Voting Precincts Nos. 4, 6, 17, 18, 22, 67, 75, 46 and 70.

Q Is there any other comment you wish to make on either of the other plans?

A I'm frustrated as to a closing comment. I will be glad to answer any comments of the Court. The Legislature and the Jefferson County delegation was ready to single-member district itself and attempted to do so but wasn't able to because of parliamentary maneuvering. We failed to secure two-thirds vote. I'm here to tell this Court that I voted to suspend the rule to take up the Tarrant County plan and to take up our plan so that we could get it out on the floor and vote on it, and it's because of

no fault of our delegation, as far as I humanly can know, that this plan did not get voted on by the Legislature and is here today in the United State's District Courts.

Q Mr. Powers, in that regard to your knowledge did anyone in the Tarrant County delegation or your delegation vote against bringing up any of these plans?

A Not that I know of, Mrs. Levatino. I would only comment that every time I turned around there was somebody from Tarrant County trying to persuade me to get out there and raise the votes to get that two-thirds changed. They were actively lobbying for it, and never did make it.

MRS. LEVATINO: We would like to offer Defendants' Exhibits 45, 46 and label this plan as Defendants' Exhibit 47 in evidence at this time, and we have no further evidence.

(PLAN FOR JEFFERSON COUNTY -- was duly marked as:
DEFENDANTS' EXHIBIT NO. 47)

JUDGE GOLDBERG: Thank you, ma'am.

JUDGE JUSTICE: For the record, they are received in evidence.

MR. GEORGE: One question. I'm Jim George representing the Republican Party.

CROSS-EXAMINATION

BY MR. GEORGE:

Q One question, quite briefly.

You referred to the Republican plan which was introduced as an exhibit, the number of which escapes me at the moment.

A I believe it was 46. It is Representative Henderson's bill.

Q That's not any plan submitted to the Court?

A No, sir.

MR. GEORGE: That's all I have. Thank you.

CROSS-EXAMINATION

BY MR. RICHARDS:

Q Mr. Powers, I was provided your summary of the composition of the four districts now in Jefferson County under the State's plan. As I see it, it divides the black population into four districts, that there are 14,000 blacks in District 5 comprising 19 percent of that district; 15,000 blacks in District 7-A comprising 20 percent of that

district; 23,000 blacks in 7-B comprising 30 percent; and 17,000 in District 7-C comprising 22 percent. Is that correct?

A Those are roughly accurate, Dave. They vary somewhat.

Q That's what is filed in support of the plan which you are testifying here about.

A That is correct.

Q And you would agree with me the plan then divides the blacks in four different legislative districts in Jefferson County?

A I'm sorry?

Q It divides the black population into four separate legislative districts in Jefferson County?

A Well, just as it divides all other types of population in Jefferson County.

Q You're having a hard time recognizing that there may be some special needs of the black community that might entitle it to special consideration by this Court, aren't you?

A No, sir, I'm not. I'm not here to ask this Court not to do what it feels is right in Jefferson County with regards to blacks. I came here principally to express legislative intent. I feel that the Jefferson County delegation did not have a chance to be heard. You didn't have a

chance to know how we felt.

Q But we do now?

A Yes, sir, you do.

MR. RICHARDS: Thank you.

JUDGE GOLDBERG: Anyone else have anything from this witness?

THE WITNESS: Thank you, Your Honor.

(WITNESS STANDS ASIDE.)

JUDGE GOLDBERG: I just want to see where we stand a little bit. Now, the next county we're going to have is McLennan. Do you have any live witnesses?

MR. RICHARDS: I thought we had a complete wrap-up on McLennan County, Your Honor---.

JUDGE GOLDBERG: It seems to unwrap. I want to know right now where we are. You think you have a live witness?

MR. RICHARDS: Oh, no, we would not anticipate calling anyone.

JUDGE GOLDBERG: Mr. Korbel?

MR. KORBEL: No, sir.

JUDGE GOLDBERG: Mr. George?

MR. GEORGE: No.

JUDGE GOLDBERG: Does the State?

MR. YORK: Your Honor, I may be misunderstood in the situation. If the Plaintiffs' plan is the same -- Mr. Richards' plan is the same one we have adopted, that the Defendants have adopted, but I'm not certain that the rest of the Intervenors, et cetera, are in on that deal.

MR. KORBEL: We informed the Court we joined Mr. Richards on the plan he offered.

MR. YORK: The only other reservation -- we have not had an opportunity to talk in detail with Judge Haley or Representative Moore about what position they occupy with regard to what we have offered. We could probably resolve that at lunch and may well have no witnesses. There might be one witness, but it will be very brief.

JUDGE GOLDBERG: What about the others?

MR. RICHARDS: Mr. Olson, Representative Olson from Waco---.

MR. OLSON: I'm merely here in case you called me.

MR. YORK: Representative Olson would be our witness, Your Honor.

JUDGE GOLDBERG: We're going to adjourn. Let me take a minute or two. Now, in Travis County, how is the witness situation?

MR. RICHARDS: We anticipate no witnesses.

MR. CRAWFORD: Your Honor, we would anticipate no witnesses.

MR. GEORGE: No witnesses.

JUDGE GOLDBERG: Mr. York, do you have.

MR. YORK: The Defendants in Travis County have not adopted a plan, so that means that we, likewise, would not anticipate having any live witnesses.

JUDGE GOLDBERG: Would not have any?

MR. YORK: No.

JUDGE GOLDBERG: Lubbock.

MR. KORBEL: Your Honor, we were informed late Saturday that the State has adopted a plan. We don't have any witnesses, but I would like to speak just a few moments.

JUDGE GOLDBERG: Oh, well, we'll permit that.

Do you have a live witness?

MR. YORK: Yes, sir. This is one of the sealed plans, and we would like to have one of the representatives.

JUDGE GOLDBERG: One witness?

MR. YORK: Yes, sir.

JUDGE GOLDBERG: El Paso? Any witnesses?

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MR. KORBEL: It's my understanding the State has not adopted a plan for El Paso.

MR. YORK: That's correct.

MR. KORBEL: I believe we may have one witness, Your Honor. I'm going to talk---.

MR. RICHARDS: We're together. MALDEF and our Plaintiffs are together.

JUDGE GOLDBERG: Mr. George, I'm not trying to exclude you from any of this.

MR. GEORGE: In El Paso County we had some little difficulty. I submitted a plan for Mr. Korbel's client and my client, an agreed plan for the Court, bearing a designation Republican Plaintiffs and Moreno Plaintiffs for El Paso County. I understand now that Mr. Korbel's client has changed his mind and is adopting the sealed plan.

MR. KORBEL: We are, Your Honor.

MR. GEORGE: I suppose that we will continue to urge the plan that had been previously presented as the Moreno-Republican plan.

JUDGE GOLDBERG: Talk it over during the noon hour and agree.

Nueces?

MR. KORBEL: Your Honor, I was informed after the hearing started that the State has now

adopted a plan for Nueces County, and I think it is outrageous---.

JUDGE GOLDBERG: We know you're outraged.

MR. KORBEL: I'm having trouble getting people from Nueces County down here to testify.

JUDGE GOLDBERG: Mr. York, do you have---? Is it true that you're going to present a plan?

(LAUGHTER)

MR. YORK: I hope the Court is not outraged, Your Honor, but it is true that the Governor and the Secretary of State have adopted a plan for Nueces County. I should point out that the plan is the plan which has been previously submitted to the Court and has been available to all counsel for over a week. It is a plan which the delegation in Corpus Christi -- it's not unanimous. Representative Truan does not adopt the plan. He would adopt the plan of the Plaintiffs, but the Defendants have adopted the majority of the delegation's plan for Nueces County and will submit evidence on that plan.

JUDGE GOLDBERG: Mr. Korbel, now do you need some testimony?

MR. KORBEL: Well, Representative Truan is in the courtroom, and I would propose that the State

put on their witness first and we use Representative Truan in rebuttal, if necessary.

JUDGE GOLDBERG: Would that be all right with you, Mr. York?

MR. YORK: We don't mind which way we do it.

JUDGE GOLDBERG: That's very nice.

(LAUGHTER)

MR. RICHARDS: We adopt Mr. Korbel's witness.

JUDGE GOLDBERG: All right. Now, let's try to get back here promptly at 1:15. Will that be all right? Will that be too much pressure on you?

(REPORTER'S NOTE: Mr. York and Mr. Richards here confer out of the hearing of the court reporter.)

MR. YORK: Pardon us, Your Honor.

MR. RICHARDS: I was just wondering if we could waive argument on Jefferson County. We'll talk about that over the noon hour.

JUDGE GOLDBERG: We'll hold your hands in the waiving process.

(LAUGHTER)

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JUDGE GOLDBERG: We'll stand in recess until 1:15.

(REPORTER'S NOTE: The Court then, at 12:20 o'clock, P.M., January 28, 1974, recessed until 1:15 o'clock, P.M., the same day, at which time it reconvened.)

JUDGE JUSTICE: Please be seated.

JUDGE GOLDBERG: The Court appreciates your promptness.

Now, where are we? I think we had reached the point of McLennan County.

MR. RICHARDS: Well, we have not disposed, I suppose, of the question with respect to argument of Jefferson County. We're prepared to let the matter -- if the Court is satisfied, let it rest on the record as it stands without arguing it.

JUDGE GOLDBERG: Do you have an irresistible urge, Mr. George?

MR. GEORGE: I would also suggest we waive argument.

JUDGE GOLDBERG: You waive argument? Does anyone else want to argue?

MR. KORBEL: I have no desire to argue on it.

JUDGE GOLDBERG: Mr. York or Mrs. Levatino, either one of you want to say something? Always open to enlightenment.

MR. YORK: Well, Your Honor, in view of the very tight schedule that the Court is on, and this will be six more arguments to make, if all the other lawyers are willing to waive that and let it rest strictly on the evidence, I think we would be, too.

JUDGE GOLDBERG: Well, if we get along in the afternoon and get a breathing spell, we would be glad for you to shed light on some of the things you think you could help us on, Mr. York.

Now, we'll move on to McLennan County. Where are we?

DISCUSSION CONCERNING McLENNAN COUNTY

MR. RICHARDS: Well, at the last report, I suppose all Plaintiffs have come together, and the State has joined in our proposal on McLennan County. All the parties before the Court, as I understand it, have unified behind the single plan, which is that that I filed.

JUDGE GOLDBERG: All right.

JUDGE JUSTICE: We have State Representative Moore here.

MR. RICHARDS: It is indicated that Mr. Moore wanted to voice some concerns of the County Commissioners up there, and the Court has indicated they would hear from him, so we certainly don't object.

JUDGE GOLDBERG: Representative Moore, what is it -- are you going to talk in behalf of a plan, or what are you going to do?

MR. MOORE: Yes, sir, a modification of the plan that's been agreed upon.

JUDGE JUSTICE: Do you want to present any evidence, Mr. Moore?

MR. MOORE: Just my own testimony from here.

JUDGE JUSTICE: Well, would you like to come over here?

MR. MOORE: No, we don't need testimony, I think. I believe we can show you the map and give you our views in less than the ten minutes you have allotted.

JUDGE GOLDBERG: Go ahead.

MR. MOORE: The voters in their great wisdom saw fit to let me quit sacrificing for the public and return to private practice last election. I'm no longer Representative Moore.

(REPORTER'S NOTE: Mr. Moore approaches map on easel.)

MR. MOORE: We're not going into any great details. That particular map shows the voting precincts in McLennan County. As you have been told, all hands, except our clients, are in agrement on a plan which is before you for dividing McLennan County into two representative districts. Now, Mr. Haley and I represent the Commissioners Court of McLennan County and the City Commission. We have no objection to the splitting of the county in philosophy or law, but we would like to talk to

you during our ten minutes about the mechanics of how you will split our county in two. Our only objection to the plan as agreed upon by all the other parties lies in the fact that it does split ten existing voting precincts. Now, when it does that, it raises quite a number of problems for the Commissioners Court in realigning those voting precincts. It means that we must also reconstitute our justice precincts and our commissioners precincts. It raises further problems in that in our county the voting precincts for the cities, Waco and Robinson and---.

JUDGE GOLDBERG: Well, you don't have city elections at the same time you have these elections.

MR. MOORE: No, sir, but the same voting precincts and the same judges and the same people know which box to vote in.

JUDGE GOLDBERG: In a county like Dallas where we redistricted, they first came out and they said they were going to have catastrophic problems---.

MR. MOORE: We don't say they are catastrophic or even insurmountable, Judge, but we have presented a plan to you which you can see by the

colored area by just a slight variation from following the census tracts to going by our voting precinct lines you can save us all this trouble. It will not do violence to the proportions of minorities. It will not put us out of line by dividing the county 50-50. We're still within two percent. There's only the slightest variation, and I don't see how anybody could seriously argue against simply following these voting precinct lines with that minute variation in order to avoid having surveys made of ten voting boxes, of having all those field notes put in the Minutes, of the myriads of difficulties that come up, plus the fact that the census lines do cut across the city limits lines in addition. We would have to have separate voting boxes for city elections from what we have in the general elections. None of this is necessary. It will not impose any hardship on any minority group whatsoever. In fact, we're putting more blacks in one box there by one percent than does this plan.

JUDGE GOLDBERG: Who establishes the voting precincts? The County Commissioners?

MR. MOORE: Yes, sir.

THE COURT: Well, we would have to have the

metes and bounds on every voting precinct in McLennan County now, because we couldn't let this plan be changed by an amendment by the County Commissioners Court of the voting precincts in McLennan County.

MR. MOORE: How are you all going to do it?

JUDGE GOLDBERG: If we do it, we're going to do it according to the census tracts. That's the only---.

MR. MOORE: Well, I mean how are you going to get your field notes?

JUDGE GOLDBERG: Because we go by census tracts and blocks within the census tracts.

MR. MOORE: Well, Judge, you can't locate them on the ground. I sure can't.

JUDGE GOLDBERG: Well, I'm sorry.

MR. MOORE: What I am saying is---.

JUDGE GOLDBERG: In Dallas County they were able to do it, and I have never heard this before. I mean I can see some inconvenience. I don't want to be misunderstood on that.

MR. MOORE: All I'm saying is, it won't be any inconvenience to you to follow our lines, rather than the lines that are previously agreed upon, and I don't think you will find any serious quarrel

from any other party about this.

JUDGE GOLDBERG: Suppose that the McLennan County Commissioners decide because of a shifting of population that they want between now and the general election to change a voting precinct? What are we going to do then? Somebody going to come running up here and want to amend something? Now, we would have to freeze you in. We would have to freeze you into these voting precincts, which I think as a matter of practicality -- I would have serious doubt about that. Go ahead with the argument.

MR. MOORE: That's my argument.

JUDGE GOLDBERG: Thank you very much. I understand it, and I know that anything we do is going to cause inconvenience. Nobody can escape that. That's one of the problems inherent in these redistricting cases. We have this case. We would like all to walk away from it. We can't.

MR. MOORE: I appreciate that, but all I am saying is, you don't have to inconvenience anybody here. The lines are there for you, the field notes, the whole business.

JUDGE GOLDBERG: All right, go ahead. I'm sorry.

JUDGE WOOD: He wants you to receive it in evidence.

JUDGE GOLDBERG: Oh, we'll receive it in evidence.

JUDGE WOOD: You do have copies of it.

JUDGE JUSTICE: How is it marked, Mr. Moore?

MR. MOORE: Presently it's marked McLennan County Commissioners' Exhibit No. 1.

JUDGE JUSTICE: Very well. It is received in evidence.

(McLENNAN COUNTY COMMISSIONERS' PLAN -- was duly marked as: PLAINTIFFS' EXHIBIT NO. 1)

(MAP OF McLENNAN COUNTY COMMISSIONERS' PLAN -- was duly marked as: PLAINTIFFS' EXHIBIT NO. 1-A)

JUDGE JUSTICE: By the way, what is the attitude of the Plaintiffs in relation to Mr. Moore's plan?

MR. RICHARDS: Well, our attitude is that we remain with our plan, because we think it is the only way we would legally describe what is

taking place, that is, by relying upon census tracts, because they can be ascertained and have a permanent---.

JUDGE GOLDBERG: The United States Government has said that that is what it is. Do you have anything, Mr. Korbel?

MR. KORBEL: That's all. We can rely on the census tracts.

JUDGE GOLDBERG: Mr. Bonner?

MR. BONNER: No, Your Honor.

JUDGE GOLDBERG: Mr. George?

MR. GEORGE: We have no real position on it one way or the other. I think the field notes, the description of the legislative districts are acceptable in any kind of redistricting if you want to make it acceptable. If you have survey of the district, you would have an acceptable description of it and the statistics by the County Commissioners Court.

JUDGE GOLDBERG: Mr. York?

MR. YORK: The delegation, the two representatives, had agreed on the earlier plan. They have told me privately, Mr. Olson and Sears (phonetic) told me that they did not take into account in the development of this plan the

technical kind of problems presented by Mr. Moore. They are not against the change -- Mr. Olson is not against the change suggested by Mr. Moore. They would leave it up to the Court.

JUDGE GOLDBERG: Thank you.

MR. RICHARDS: That concludes McLennan County.

JUDGE GOLDBERG: Now, we go to Travis. What is the situation on Travis? Any live witnesses:

DISCUSSION CONCERNING TRAVIS COUNTY

MR. CRAWFORD: Your Honor, we have no live witnesses, and I believe I can summarize in about two or three minutes, and we can put the map up if you would like.

JUDGE JUSTICE: Yes, let's look at the map.

(REPORTER'S NOTE: Map is placed on the easel.)

MR. CRAWFORD: In line with the Court's suggestion in bringing Travis County to a speedy conclusion, this is exactly what we would like to do. The map which is depicted now is worked out by

all the parties Plaintiff, as well as the Intervenors. The lines are drawn, as you can see, along easily recognizable boundaries. We think the districts are compact. They are contiguous. They give bearing and take into consideration the homogeneity of the ethnic, the cultural, the socio-economic patterns, as well as the community integrity and the community interests.

We further think they meet the test of maximizing the minority voting strengths so that the representation will come from geographic boundaries that the ones who will be elected will be responsive to the needs and will be responsible for the action which they take.

Now, in each of these---.

JUDGE GOLDBERG: Let me ask you a question. Is the same plan---?

MR. CRAWFORD: That has been submitted.

JUDGE GOLDBERG: ---that has been submitted. It's just a map of the city and the outlying areas, but it doesn't look like the map that we have.

MR. RICHARDS: The other maps are on census tracts.

JUDGE GOLDBERG: I see, but it's the same thing?

MR. RICHARDS: The same thing virtually.

MR. CRAWFORD: So, Your Honor, within the data which we used to compile this, there is no guarantee, and it is our position that there shouldn't be a guarantee that a minority member will be elected. In the main, the two districts, A and B, these are the two districts with heavy concentrations of minority groups, in A the Mexican-American population and in B the blacks.

JUDGE GOLDBERG: What are those figures approximately? It's in the record, but I just---.

MR. CRAWFORD: It's in the record. The black is 32.98. This is about 33 percent Mexican-American (indicating).

JUDGE GOLDBERG: Thank you.

MR. CRAWFORD: There may be some questions on some of the configurations which you might see, and this is the St. Johns community, which there's testimony in the record which indicates why we attempted to maintain the community integrity and the interest there (indicating). This is a natural boundary of which there was also testimony which runs between the black and the brown community (indicating). It also takes into consideration some ethnic factors.

Now, that is basically what our plan is, and our only submission is that this plan be implemented forthwith.

JUDGE JUSTICE: For the record, what is your name, sir?

MR. CRAWFORD: J. Phillip Crawford.

JUDGE GOLDBERG: Crawford, thank you, sir.

MR. GEORGE: I believe that's all in Travis County, except that we have submitted a plan. We have no real objection to the other Plaintiffs' plan. Our only concern is the division of the minority community between two districts in this Plaintiffs' plan, which we consider runs some risk of not granting the relief sought by the Plaintiffs. The district that we prepared provides a 61 percent minority district and insures a bigger representation---.

JUDGE GOLDBERG: You want to give them a gold back guarantee (sic)?

MR. GEORGE: Well, we say that 61 percent, given the voting record, would not give anyone a voting guarantee, but it certainly does not run the risk of being constitutionally invalid.

JUDGE JUSTICE: Mr. Crawford, do you have something?

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MR. CRAWFORD: I would like to respond by saying that we are overwhelmed by the generosity of Mr. George as far as wanting our assurance, but it is our express and explicit position that we not be guaranteed -- we want a sporting opportunity and a chance to win.

JUDGE GOLDBERG: Thank you. Who else? Anyone? Mr. York and Mrs. Levatino?

MR. YORK: Your Honor, the Defendants have not adopted a plan in Travis County. Therefore, we have no evidence to present. We would like to offer -- and I'm sorry the copy I have doesn't have complete information -- not as a plan adopted or offered by the Defendants, but simply for the Court's perusal, a copy of the Commissioners Precincts or Districts in Travis County, which are four in number and which do divide the county up, simply for the Court's review and general information with regard to the other plans. We'll have to get a copy. I think all counsel are familiar with it. We'll have to get the copy marked, and I didn't realize this copy didn't have all the markings on it.

JUDGE GOLDBERG: At the end of the session you can put it into evidence.

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Now, let's see. Lubbock, any evidence on Lubbock?

TESTIMONY CONCERNING LUBBOCK COUNTY

MR. KORBEL: We have no witnesses. I understand the State has some witnesses.

MR. YORK: That's correct, Your Honor. We do have Representative McAlister who, I believe, is here.

JUDGE GOLDBERG: Is he here?

MR. YORK: Yes.

JUDGE GOLDBERG: Mr. George?

MR. GEORGE: No witnesses.

MR. RICHARDS: The Plaintiffs, the Wright Intervenors et al, join with the MALDEF plan in Lubbock County.

JUDGE GOLDBERG: Thank you.

R. B. McALISTER,

a witness called by the Defendants, having been first duly cautioned and sworn to testify the truth, the whole truth and nothing but the truth, testified as follows:

DIRECT EXAMINATION

BY MR. YORK:

Q Will you give us your full name, please, sir?

A R. B. McAlister.

Q What is your business or profession, Mr. McAlister?

A Broadcasting.

Q Are you also a member of the Texas Legislature?

A Yes.

Q What district do you serve?

A I come from the Lubbock District 76, Place 2.

Q How long have you been a member of the Legislature, please, sir?

A Since 1968.

Q Have you participated in the development of a reapportionment plan for District 75?

A Yes.

Q Is what is now on the board here an accurate copy of the plan which you and others have developed for redistricting District 75?

A Yes.

Q Has that plan been previously submitted to the Court in a sealed form prior to today?

A I believe so, yes.

MR. YORK: This will be 48, Mr. Clerk?

CLERK OF THE COURT: Forty-eight.

MR. YORK: I'll mark this large copy Defendants' Exhibit 48.

(PLAN FOR LUBBOCK COUNTY, MAP -- was duly marked as: DEFENDANTS' EXHIBIT NO. 48)

Q Has this plan which is now before the Court as Exhibit 48, Defendants' Exhibit 48, first of all has it been agreed to by the two members of the delegation from Lubbock County?

A Mr. Tarbox and I have conferred on this and

both agreed that it was an intelligent plan and one that would speak to some of the issues involved.

Q So it is an agreed plan from the Lubbock County delegation?

A Yes, sir.

Q Has it also been adopted by the Governor of this state, Governor Briscoe, and Secretary of State, Mark White, as the plan of the Defendants in the case for Lubbock County?

A Yes.

Q What considerations did you have in drawing the plan?

A Well, as you know, Lubbock is a shifting city and has been since especially 1970 due to the tornado which caused quite a few changes in some of the personality compositions of the various segments of the city.

Q Shifted your biggest building, too, didn't it?

A Well, it hasn't shifted yet. It's in the process, but the thing, I felt, that made this plan plausible and one that would be at the same time important is that it gives a fine balance to the minorities in both districts with certainly a very impressive significant minority in what we call, I believe, District A here, or 75-A.

Q Do these two districts, as far as their

equality and number, how do they compare with the so-called ideal representative district in the state?

A As far as the 75,000?

Q Yes, sir.

A Well, I don't have that figure right here, but is very, very close, I think maybe within 130 or 140 people difference, something like that.

Q Does this plan affect any other districts besides what is now District 75?

A Yes, it would address itself to Representative Laney's district, since this encompasses the city limits of Lubbock and would give Lubbock for the first time representation of the city (sic).

Q Now, what effect does it have on the adjoining district in terms of numbers?

A I just can't answer that statistically.

Q Oh, I'm sorry. I thought you had that information in the breakdown.

A You mean Representative Laney's district?

Q Yes, percentage-wise how much does it change it?

A I believe there are about 6,000 people in what will be the lower right-hand corner -- I'm trying to see -- what is the lower lines, the parallel lines on the bottom, what street is that, the third one?

Q Eighty-second Street.

A Well, you go about three-quarters of the way, starting from left to right, and then Representative Laney's district at the present time comes back to Fiftieth Street from Eighty-Second, which would go north on the map up to Fiftieth Street, and then it goes back out east to the city limits, so there are about 6,000 people, but at the same time this district also eliminates from Representative Tarbox and me back over here two of the rural areas that are now in the---.

(REPORTER'S NOTE: Counsel indicates on the map.)

A No, back over here.

Q On the right?

A Yes, back over here. It's Friendship, and also a little bit of the New Deal community which comes back in the northwest area. Those two would be incorporated in the upper rural district, which would give Representative Laney a strong rural representation in Lubbock County, to go with, of course, Hale County and Swisher, which he now has.

Q Well, what does it balance out, in other words, what you take into 75 from 76 and what you give back to 76, does it balance out in terms of numbers of people?

A Yes, I think it pretty well washes out, far within the acceptable percentage lines.

Q Now, as far as this District 75-A is concerned, the total number of blacks, is that 6.41 percent in 75-A?

A Yes, that's what I have.

Q And then Mexican Americans in 75-A, 21 percent of the district?

A Right.

Q Down in 75-B, the blacks, 6.16 percent of the district?

A Right, which is almost comparable with the 75-A.

Q Right, and then the Mexican-American about 8 percent of the District 75-B?

A Yes.

Q All right.

A I might add that the 8 percent in my opinion is growing, because of various and sundry influences of bringing the Mexican-American families into Southwest and West Lubbock.

Q So that the total up here, as far as 75-A is concerned, is about 27 percent browns and black.

A Yes.

Q And down in 75-B about roughly 14 and some-odd

percent in browns and blacks?

A Yes.

Q Let's see. Do you have the figure on the whole county or the whole district?

A I have the city. The city will be -- there are now 13.60 percent Mexican-American in the city and 7.27 percent of blacks in the city.

Q If you were to gerrymander the districts around in such a way that you managed somehow to get all the minorities into one district, would it be true that they would still amount to less than one-half of the population in that gerrymandered district, no matter how you did it?

A Well, according to our figures here, it would come to less than 30 percent.

Q Does this plan as you have developed it here, does it pay respect to the concept of giving urban people an urban district and rural people a rural district?

A Yes, for the first time.

Q Are there any census tracts cut that you are aware of in that plan?

A I think there are -- I did not have a chance to confer with County Judge Shaw, but I think maybe there might be about nine that would be somewhat affected, only two in any great phase, I would say.

Q Is there anything else that you would like

to tell the Court about this plan before we go on to any other plans that have been submitted by other groups?

A Well, I feel that this plan makes an intelligent approach, having been in Lubbock since 1929 and studied the demographics, as well as the minorities. I feel that this is going to eliminate any possibilities we have of developing polarizations among our city. We have, of course, like unto some of the other cities in the state now, we have a strong interest among college students. We have a strong interest among the minorities, as we call them, relative to Mexican-Americans and blacks, and we also have a strong influence among what I call the young adults, the 25-to-40 group, but this gives a mixture to me, which will give us much more balance, as far as unity, not only from a representative standpoint but also from an over-all community standpoint.

I have a hard time personally addressing myself to any worries about my representing 75-B any less than 75-A. This is to me theoretical and has no practicality at all, but I realize that there has to be a division, but to me I feel like we look at them certainly as a community and recognize certain individuals having an opportunity to be elected, if they can gain strong support from the minorities, and I respect that and feel that it is important.

Q Anything else about your plan then that's on

the board?

A Well, one thing I like about it, too, it splits what I call Silk Stocking Avenue, and this to me is a healthy thing in that we are able again to homogenize the community with these districts.

Q With regard to the plan the Mexican-American Legal Defense and Education Fund proposes, what is your view of the fact that their District B, as I have the figures, has about 42 percent minority groups in it, blacks and browns? How do you feel about that as relating to whether or not that is more or less representation, considering the total number of blacks and Chicanos there are in Lubbock County?

A Well, it's difficult for me to speak in opposition to anything which I feel will help the Mexican-Americans and blacks, and my voting record reflects this, but I have this thought, though. I feel that in order for us to do the things that should be done in giving them representation, that there cannot be the power plays. I think there has got to be the strength that they now have as to infiltration and permeate the entire community, and it will do it much better by their incorporating both districts as we have done than trying to get into one isolated group and use straight muscle. I don't think they need it in Lubbock, and they certainly have reflected that in the last few years. I think we'll get there quicker in

a much more satisfactory vein with these districts than trying to build a bailiwick that might elect one individual.

Q Let's talk about deviations just for a minute, comparing this plan, the Governor's and Secretary of State's plan, to the other plan.

First of all, while your plan has in 75-A a deviation, I believe, of 114 from the total average across the state, is it true that the MALDEF plan has a deviation in that district, Plan A, of 1435?

A I understand that's true, and the Republican also has quite a deviation.

Q Something like 8,379 deviation in District A of the Republicans?

A Yes.

Q And then in District B you are 75 under the average in B while MALDEF is 133 less and the Republicans something like a thousand under the ideal district. Is that correct, as far as you know?

A That's true.

Q What else is there about either the Republican plan or what we call the MALDEF plan that you feel the Court should be made aware of and that you would like to say to the Court?

A Well, I think probably to crystallize what I am trying to say is, I think that these two plans both are

speaking in a defensive position, and I think that this plan speaks in a positive way to what they're trying to accomplish.

Q All right, sir. Now, if this matter were being resolved by the Legislature, as opposed to Their Honors, and if the delegation from Lubbock County had agreed on a plan by which Lubbock County would be redistricted in the normal reapportionment process in our Legislature, would you expect that that would be the plan which would be adopted by the Legislature if the Legislature should redistrict itself?

A This plan we have here?

Q Yes, sir.

A Yes, or something very close.

MR. YORK: Pass the witness, Your Honor.

CROSS-EXAMINATION

BY MR. KORBEL:

Q This plan is presently before the Court, but I thought it would be helpful so you could see it---.

MR. KORBEL: May I approach the exhibit?

JUDGE JUSTICE: Sure.

Q So there's no question what Representative

McAlister's plan does is take these two census tracts and exchanges them for these two census tracts (indicating), which is about an 11,000-people exchange.

Representative McAlister, isn't it true that sometime ago I showed this plan to you, and we discussed it, and you told me you did not object to this plan (indicating), would not object to the Court's implementation of this plan?

A Well, I think I said exactly what I said a moment ago, that is, that I would have a hard time opposing anything that would help the minorities.

Q Would you agree with me that if the minorities had better than 40 percent, let's say 42 percent of the population of one district, they would have a better chance of overcoming the problems that they have had with the Anglo racism in Lubbock County?

A I don't agree with that. I think the problem is deeper than that.

MR. KORBEL: I have no further questions.

MR. RICHARDS: Your Honor?

JUDGE GOLDBERG: Yes.

MR. RICHARDS: Let me make clear i I understand the plan we're proposing, it is drawn within the confines of the existing multi-member district and does not purport to alter any other district

and, as I understand it, your proposal, Representative McAlister, it would alter Laney's district by transferring two census tracts---.

THE WITNESS: Right.

JUDGE GOLDBERG: That's right. We understand that. We're in agreement.

Anyone else at this table? Mr. York or Mrs. Levatino?

MR. YORK: Just one other thing.

REDIRECT EXAMINATION

BY MR. YORK:

Q Taking some away from 76 and putting them in 75 and taking some out of 75 and back into 76, you have told us that that was a balancing-out, as far as your testimony was concerned?

A Yes.

Q It would not leave either 75-A or 75-B or 76 more than four to five percent or whatever away from the ideal district?

A That's correct, and we tried almost every formula available, every combination, and this was the only one we found that would come this close and at the same time

answer the problems in giving the minorities a significant voice in both districts.

MR. YORK: All right, thank you.

JUDGE GOLDBERG: Any other?

Now, who has the urge to speak?

MR. KORBEL: I have just a couple of things I would like to say about the plan, Your Honor.

JUDGE GOLDBERG: What?

MR. KORBEL: I have a couple of things I would like to say about the plan.

JUDGE GOLDBERG: All right.

MR. YORK: Your Honor, just before I forget it, we would like to offer this large plat, No. 48 and also the description of it as 49.

JUDGE GOLDBERG: Oh, I understood that.

(PLAN FOR LUBBOCK COUNTY, DESCRIPTION -- was duly marked as: DEFENDANTS' EXHIBIT NO. 49)

ARGUMENT IN BEHALF OF THE MALDEF PLAN FOR LUBBOCK COUNTY

MR. KORBEL: I would just like to point out to the Court we offered an exhibit, and I don't have the number, but it was an economic and social

analysis of Lubbock County among other counties. We would ask the Court to compare what this plan does with respect to minorities and with respect to communities of interest.

Our plan also preserves the existing district. It doesn't affect any other district in the state and simply divides the two districts.

Now, the Defendants were able to come up with a little better deviation, because they changed the census tracts which are included in the City of Lubbock District. There were a thousand extra people in the Lubbock multi-member district, so that's why our deviation is slightly higher than theirs, although it is negligible.

JUDGE GOLDBERG: How much is the deviation?

MR. KORBEL: Our deviation, I believe, Your Honor, is a thousand -- 133 up on one district.

JUDGE GOLDBERG: Percentage-wise, we want some percentage.

MR. KORBEL: That's .17 percent, two-thirds of a percent (sic). The other district is 1.92 percent, under 2 percent. I think that would be negligible. I think it's important to point out what the effect of their plan is, is to split the minority population. In that census study

that we have before the Court we have identified nine predominantly minority tracts. They put six minority tracts in one district and three in the other. We feel, Your Honor, this would certainly be detrimental to the interests of Plaintiffs. That's all I have got to say.

JUDGE GOLDBERG: Anyone else?

Mr. York or Mrs. Levatino?

MR. YORK: I think Mr. McAlister has expressed our sentiments, Your Honor. Thank you.

JUDGE GOLDBERG: Thank you very much.

That moves us on to El Paso.

DISCUSSION CONCERNING EL PASO COUNTY

MR. GEORGE: Following the Court's admonition, the clients have agreed on a plan in El Paso County, and the plan has been submitted by Moreno and the Republicans and is now withdrawn, and I believe all parties Plaintiff adopt the plan, previously sealed plan, submitted by Representative Coleman.

MR. KORBEL: That's correct, Your Honor. There were some typographical errors in Coleman's original plan, which we filed corrections on this

morning, and all Plaintiffs join in that plan.

JUDGE GOLDBERG: Where is that plan? Is it in evidence?

MR. KORBEL: Yes, I'll have it marked and submitted right now. I have four copies of it, Your Honor. It was filed this morning.

JUDGE GOLDBERG: What is this plan? What is it known as?

MR. KORBEL: This is known as the Coleman plan, sealed Coleman plan.

JUDGE GOLDBERG: C-o-l-e-m-a-n?

MR. KORBEL: C-o-l-e-m-a-n. He's a State Representative from El Paso County.

JUDGE GOLDBERG: All parties agree -- all parties on this side of the table, Plaintiffs agree -- Intervenors and everything else, but everybody over there?

JUDGE JUSTICE: Do I understand that the State has not agreed?

JUDGE GOLDBERG: I'm sure they haven't.

MR. KORBEL: I am also authorized to inform the Court that two State Representatives from El Paso County also agree with this plan.

JUDGE JUSTICE: All right, offer it.

MR. KORBEL: Yes, sir, I'm going to.

JUDGE GOLDBERG: Called the Coleman plan, and which exhibit is it? Do we know?

MR. KORBEL: We'll call it Wright Exhibit 37.

THE COURT: What?

MR. RICHARDS: Wright Exhibit 37.

JUDGE GOLDBERG: Wright did not have an exhibit in El Paso, did they?

MR. RICHARDS: No.

JUDGE JUSTICE: Wright Exhibit 37 is received in evidence.

(PLAN FOR EL PASO COUNTY, WRIGHT -- was duly marked as: PLAINTIFFS' EXHIBIT NO. 37)

MR. YORK: Is that with a "W," Your Honor?

MR. RICHARDS: W-r-i-g-h-t, Charles Wright.

JUDGE GOLDBERG: That brings us to you, Mr. York.

MR. YORK: The Defendants, Your Honor, have not adopted a plan for El Paso County.

JUDGE GOLDBERG: You pass, all right.

Does anybody else have anything? That finishes El Paso. Is that correct? We're now to

denouement and Nueces County.

TESTIMONY CONCERNING NUECES COUNTY

MR. YORK: Your Honor, we're in the embarrassing position of having completed two counties before lunch, and looking at what was left, Representative Hale had to begin a committee meeting at the Constitutional Convention at 2:00 but promised to be back at 2:15.

JUDGE GOLDBERG: He's here.

MR. YORK: I'm sorry. I didn't see him come in. We're in good shape then.

JUDGE GOLDBERG: Great.

MR. YORK: I made excuses and didn't need to. That would be our proof.

JUDGE GOLDBERG: What do you folks to the right have? Do you have any witnesses?

MR. KORBEL: Your Honor, depending on what Representative Hale has to say, we may offer a witness.

JUDGE GOLDBERG: Well, we'll listen to Representative Hale.

MR. YORK: Your Honor, since we have done some good on moving up the time a little bit,

could we have about five minutes?

JUDGE GOLDBERG: Yes, sir.

MR. YORK: We had anticipated having a recess before---.

JUDGE GOLDBERG: It's 2:00 o'clock. We'll give you ten.

MR. YORK: All right, sir.

(REPORTER'S NOTE: The Court then, at 2:00 o'clock, P.M., January 28, 1974, recessed until 2:10 o'clock, P.M., the same day, at which time it reconvened.)

JUDGE JUSTICE: Please be seated. I don't believe the Attorney General is represented at this point.

(REPORTER'S NOTE: Mr. York enters the courtroom.)

JUDGE GOLDBERG: Do you need a little more time, Mr. York?

MR. YORK: No, sir, thank you. We appreciate it.

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May it please the Court, for purposes of Nueces County only, we are advised by Secretary of State Mark White the Defendants will adopt the plan which Mr. Hale is about to discuss before the Court, and since it is a divided delegation, that is, two members for this plan, and Mr. Truan, the third member, for another plan, that for the purpose of allowing the Court to have the two competing views of legislative intent from this county, the Defendants will, in effect, adopt both the Hale plan and the MALDEF plan.

(LAUGHTER)

JUDGE GOLDBERG: What are you doing, impaling us?

MR. YORK: Sir?

JUDGE GOLDBERG: Are you impaling the Court by this?

MR. YORK: No more than others did.

JUDGE JUSTICE: Let me see if I understand.

(LAUGHTER)

JUDGE JUSTICE: You're urging both plans on the Court? Is this it?

MR. YORK: Defendants adopt both plans.

JUDGE JUSTICE: All right.

JUDGE GOLDBERG: We can flip a coin?

MR. YORK: I wouldn't suggest that the Court would ever resort to that in a case like this.

JUDGE GOLDBERG: Well, are you equally -- you have no conviction with respect to these plans?

MR. YORK: Your Honor, we're here simply to convey the wishes of our client to the Court in that regard.

JUDGE JUSTICE: Let's take him out of this embarrassing position.

Go ahead, Mr. York.

JUDGE WOOD: Maybe Mr. Hale has a feeling about it, and maybe Mr. Truan, and then we can hear it from them both.

MR. YORK: I believe that's correct.

L. DeWITT HALE,

a witness called by the Defendants, having been first duly cautioned and sworn to testify the truth, the whole truth and nothing but the truth, testified as follows:

DIRECT EXAMINATION

BY MR. YORK:

Q Give us your name.

A L. DeWitt Hale.

Q You're a lawyer, and you've been a member of the Texas Legislature for -- well, beginning in 1952. Is that correct?

A 1953, yes, sir.

Q '53? And your testimony about your background and the various committees you have served on and so on is already a part of this record, so I won't belabor that.

A Yes, sir.

Q Have you and Mr. Salem, I suppose, principally -- will you tell us about the plan you are here to talk to the Court about? Do you have a map of the plan that

you are here to advocate?

A Yes, sir, I have. As you know, Counsel, I submitted a plan last December in a sealed envelope pursuant to the Court's instructions, which was simply my individual handiwork. After we learned through your office that the Court would not hear evidence on any of these plans unless they had been adopted and given some official sanction by one of the Defendants, as you know, we were contacted and all the delegations in the seven counties involved were contacted by the Secretary of State and other state officials and urged to get together and try to develop a plan.

As a result of that, Mr. Truan and Salem and I met together extensively the first evening we found out about that, which, I believe, was last Thursday, if my memory serves me correctly, and this plan was the outgrowth of that meeting.

Q I have marked or put an exhibit number on a proposed reapportionment plan for Nueces County which you have handed to me, which is a description, along with the map and various ethnic breakdowns and census tract information.

A Yes, sir.

Q Do you have a larger map of that same thing?

A Yes, sir, there is a small map attached to that plan.

MR. YORK: We'll mark this. See, Mr. Clerk, which numbers do we have now next up?

CLERK OF THE COURT: 50 and 51.

MR. YORK: We marked the map, Your Honors please, Defendants' Exhibit 50 and the narrative description as 51.

(HALE PLAN FOR NUECES COUNTY, MAP -- was duly marked as: DEFENDANTS' EXHIBIT NO. 50)

(HALE PLAN FOR NUECES COUNTY, DESCRIPTION -- was duly marked as: DEFENDANTS' EXHIBIT NO. 51)

Q What is up here as Defendants' Exhibit No. 50, is that the map that was the result of the negotiations and conversations during this week after you were advised the Court would not hear evidence on a plan unless it were adopted by a party?

A Last week, yes, sir.

Q What considerations were in your mind as the plan was developed, please, sir?

A First, let me say that the consideration that motivated the first plan I filed, and from basic population

standpoint there's very little difference between the first plan I filed and this one, other than we did do a little shuffling of census tracts, but the population of Nueces County is roughly 51 percent majority, 49 percent minority, almost a 50-50 split. I started out on this whole redistricting idea under the theory that if it were possible to do so, each group should have one and a half representatives. It's pretty hard to divide a representative, although there are probably people who think many of us are only a half representative. (LAUGHTER)

A To do that, the plan I had originally developed, and this plan the same way, has two districts, each of which are roughly two to one. One is two-to-one Latin American; another district is about two-to-one Anglo American; and the third district is about 50-50, and that was the basic premise on which I started and on which we tried to work.

Now, the adjustments on here that were made, the middle district is the one where Mr. Truan lives---. Could I walk down there and show you on the map?

MR. YORK: Yes, sir, if that's all right with the Court.

THE WITNESS: I don't know if I can get out of here (indicating).

JUDGE GOLDBERG: Let him out of jail.

(REPORTER'S NOTE: The Clerk complies and the witness approaches the map.)

A This map was developed -- our working tool was the map of the MALDEF plan, and what we had done there was to take the area where Mr. Truan lived right here (indicating), and we took this area and expanded it south. The original plan which I had had a district built around Mr. Truan, which went in sort of a northerly direction toward the base, and that resulted in a less proportion of Mexican-American than this district does. This district gives Mr. Truan -- I have the exact figures here -- but a predominantly Mexican-American district, about two to one. This district, the large district here, would be about two-to-one Anglo, and this district here with the vertical crosshatching would be about 50-50 on population, and the adjustments between this and the map that I filed in December, about the only difference there is that Mr. Truan's district would move sort of northwest, rather than northeast from his area, and the reason for that change was to add more Mexican-American population into the district and take out some of the Anglo-American population out of his district.

That would give us three districts.

One

district would have 60.3 Chicano, 6.1 black, 32.4 white. The other district, the reverse of that, would be 48-C on there and would be 31.7 Chicano, 1.3 black and 65.7 Anglo, so in one instance you have about two-thirds minority, and the other one you have about two-thirds majority.

The third district ends up 43.1 Chicano, 7.3 black and 48.9 other or roughly about 51-49 minority.

Q Are these, Mr. Hale, districts marked on 50, do they have the A, B, and C markings?

A It's coded at the bottom, Counsel, by crosshatching.

Q Just by crosshatching?

A Yes, sir.

Q Do you mind if I add to that -- is this A in the center?

A The horizontal crosshatching is 48-A.

Q I'll put an A in there (indicating).

A Yes, sir. And the vertical crosshatching is B.

(REPORTER'S NOTE: Counsel marks on exhibit.)

A And then the angular crosshatching at about a 45-degree angle there is C.

(REPORTER'S NOTE: Counsel marks on exhibit.)

Q I have marked it to represent that.

A Excellent.

Q Your breakdown in the Exhibit 51 which accompanies this map shows the numbers or percentages of ethnic groups in these districts and also shows the total numbers of people in the districts, does it not?

A Yes, sir, by census tracts and by race.

Q And are these districts, these districts A, B and C, are they true to the notion of trying to come as close to the ideal district in terms of number as you can?

A There's very little deviation in those from the ideal.

Q What else is there about this plan, this Exhibit 50 that's on the board? What else is there about that plan or the manner in which it was developed or what it does that you feel should be in the record or should be told to the Court?

A Well, I think I have given you our thinking behind it. As I say, from Mr. Salem and my standpoint we were not too concerned about drawing these lines in the sense that we were going to be paired under any arrangement,

since we live on the same street. Mr. Truan, we would like, consistent with our objective of getting balance in the delegation, which we have been fortunate enough to have considerable balance in our delegation in the last ten years, and we felt like it should be maintained on single-member districts, and by trying to get this balance, rather than have imbalanced districts, we felt would achieve the purposes of the redistricting that the Court wanted better than it would and with less polarization in the entire county than it would if you had top-heavy racial majorities in the individual districts.

JUDGE GOLDBERG: What is this exhibit number?

MR. YORK: This is 50, Your Honor.

JUDGE GOLDBERG: Thank you.

Q What about the other plans that have been proposed to the Court, the MALDEF plan? What comments or views do you have about that?

A Well, of course, it provides that imbalance that I referred to a minute ago, and that was my main objection to both it and the Republican plan. You were nice enough to provide me with copies of those two, and I did look them over. For instance, on the MALDEF plan you end up with one district that has almost 75 percent minority to 25

percent Anglo. You have another district that ends up with over 60 percent minority and only about 38 percent Anglo, and then you end up with a third district, which is going to have about 86 or 87 percent Anglo. Well, the imbalance there disturbs me, because what you're going to do is polarize the entire county on that. By getting that tremendous imbalance there, you're going to force extremes in the political spectrum, rather than trying to pull the political spectrum toward the middle of the road, and that concerns me.

Q On the MALDEF plan then from your viewpoint how many minority type representatives does it appear to be aimed toward putting in this three-person delegation?

A The MALDEF plan?

Q Yes, sir.

A Oh, I think it would solidify two out of the three.

Q So that some 66 percent of the delegation would be minority, while the population in the district is only about 50 percent minority?

A That's true, less than 50 percent -- about 49 percent.

Q Is there anything else about the -- particularly the MALDEF plan that you would like to comment on or point out to the Court?

A Well, of course, if you'll look at the map of the MALDEF plan, the districts are not as cohesive. I hesitate to use the word "gerrymandering" but the plan we have adopted here, we start out with two very compact districts and then put the rest of the county in the third district, and the MALDEF plan is a little more circuitous in the way in which they tied the census tracts together, apparently designed to achieve the purpose that they achieved, apparently.

Q That is, designed to get two minority representatives, as opposed to less than that?

A To one and a half.

Under this plan that we're submitting here through the Secretary of State, as I say, under this logically, and, you know, politics doesn't necessarily follow logic, but under this plan you would expect one Anglo-American and one Mexican-American representative, and then the third area would be a 50-50 under the 1970 census. That would mean it's probably slight predominantly Mexican-American now, this being 1974, but this would be a battleground area, and my guess is that in a battleground area like that it would depend upon the man that was running. That district would probably elect a Mexican-American on occasion and probably elect an Anglo-American on occasion, and in a county as evenly divided as ours, I think that's a very desirable situation.

Q What about the plan submitted by the Republicans? Have you had an opportunity to comment on it?

A Yes, sir, I did. It is very similar to the MALDEF plan, the only difference being in the way in which they handle Robstown in the western part of the county. They tagged Robstown in the western part of the county into the area where Mr. Truan lives, whereas, the MALDEF plan gives Mr. Truan a compact little district in the center of the county and ties Robstown into the northern part of the county. Other than that, it is the same, and population-wise and percentage-wise and result-wise it is substantially the same.

Q You mean the results of the Republican plan would be much like the results of the MALDEF plan?

A The percentages are comparable. They're almost the same. I went through and checked the percentage figures while ago. They end up with two districts with heavy minority and one district 87 percent Anglo.

Q Do you have any idea what the Republican proponents of that plan might have in mind by doing that?

A The only way I can see, they apparently think they're going to nail down a district on the south side of Corpus Christi that will elect a Republican representative, and I presume that that was the motivation behind that particular arrangement of the tract.

Q Is there anything else of significance about any of the three plans that you would like to comment to the Court about?

A I would just say -- and this is more or less repetition, Counsel -- that I would hope that the Court would look with favor on a balanced situation that would -- well, where we would get the least trauma and polarization of public opinion in the county. We have had too much of it here in the last few years, and I hope we can minimize it in this litigation.

MR. YORK: Thank you, Representative Hale.

JUDGE GOLDBERG: Cross-examination?

MR. KORBEL: I just have a couple of questions, Your Honor.

CROSS-EXAMINATION

BY MR. KORBEL:

Q Now, would it be correct in this plan that you propose that you tie the Robstown area in with the Gulf Bay front area here (indicating)?

A That's correct.

Q I'm referring now to Defendant's Exhibit 50.

A Yes.

Q. Can you tell me what the approximate racial breakdown on the Robstown area is?

A. Robstown is predominantly Mexican-American.

Q. Would you say around 80 to 90 percent Mexican-American?

A. Oh, that's in the ball park, Counsel. I'm not sure of the exact figure.

Q. For the purpose of the record, it's in the record that Robstown is made of Census Tract 56 and 57, which are 78.29 percent Mexican-American and 95.58 percent Mexican-American.

Can you give the Court an idea of what recial and ethnic breakdown of the Gulf front area is?

A. It is predominantly Anglo-American.

Q. Would you say 80 to 90 percent Anglo-American?

A. Well, the district you have carved there has 87 percent Anglo in the entire district that you set up there.

Q. Can you give the Court an idea about the income, comparative income, between those two areas?

A. It would only be a guess. Robstown is a low income area. The Ocean Drive area around Corpus Christi is a high income area, comparatively speaking.

Q. Can you give the Court any sort of a reason

that you want to tie Robstown into a gulf front

A. Well, we didn't want to gerrymander. I explained before, Counsel, the plans submitted here do the same thing. You tie Robstown in with another area here in one plan, and MALDEF comes along here and ties it in with another area in Corpus. It is a question of whether you want balance in the district or whether you want the district overwhelmingly in one direction so as to completely polarize the political thinking of the county.

Q. Would you agree with what Representative Finney said this morning in drawing districts you should attempt not to include high registered, high income Anglo precincts with low registered, low income Mexican-American and black precinct districts?

A. I didn't hear Representative Finney's testimony. Would you ask me the question, and I would be glad to answer it.

Q. Would you agree that in drafting single-member districts it is a good idea not to include high voter registration, high income Anglo districts with low voter registration, low income Mexican-American census tracts?

A. I don't know that I would have an opinion one way or another on that. I would hope that we're not drawing these lines to make ourselves racists. I hope we're

trying to get away from that, Counsel, and I certainly did in drawing this plan. There was no attempt to do that.

Q. Did you consider community of interest at all?

A. Yes, sir, sure did.

Q. What community of interest is there between Robstown and the bay front area?

A. Well, of course, why should they be in Nueces County then, Counsel? We've been representing them for years, and they have been in the county, and they apparently think we've done a pretty good job. I get bigger majorities in Robstown than I do in Corpus when I run for reelection.

MR. KORBEL: I have no further questions.

JUDGE GOLDBERG: Any other?

MR. YORK: No questions.

MR. RICHARDS: No, sir.

JUDGE GOLDBERG: Thank you.

(WITNESS STANDS ASIDE.)

JUDGE WOOD: You're going to offer that exhibit, I presume?

MR. YORK: I thought I did. We offer Exhibit 50 and 51.

MR GEORGE: That brings up a housekeeping matter. The plans that were submitted by the

parties, the Court ordered, and I have not offered them on the theory that they were before the Court as part of our response to that order and did not need to be submitted as evidence.

JUDGE GOLDBERG: I think that's right.

JUDGE WOOD: Sure, they will be received in evidence.

JUDGE GOLDBERG: They'll be received. In other words, the plans that were filed, sure, we asked them to.

MR. GEORGE: Thank you very much.

JUDGE GOLDBERG: Mr. Korbel, do you have a witness?

MR. KORBEL: Does the State want to call Representative Truan?

MR. YORK: Well, since the MALDEF, I think, may be more familiar with that plan, we will allow them to do that.

MR. KORBEL: First of all, Your Honor, I would like to say that my indignation increases. We weren't served a copy of the latest -- the State's latest approach to this until just during the recess. It becomes very difficult to cross-examine on the basis of that plan.

JUDGE GOLDBERG: We'll make due allowances,

Mr. Korbel.

MR. KORBEL: Thank you, Your Honor, I appreciate that.

CARLOS TRUAN,

a witness called by the Plaintiffs, having been first duly cautioned and sworn to testify the truth, the whole truth and nothing but the truth, testified as follows:

DIRECT EXAMINATION

BY MR. KORBEL:

Q. Representative Truan, can you describe for the Court the effect of this plan which has been introduced as Defendants' Exhibit 50, which is their alternative plan for Nueces County?

A. In my opinion what this plan would do would be to dilute the Mexican-American votes in Census Tracts 56 and 57, referred to before as the Robstown area, and would not enable the predominantly Mexican-Americans who live in those two census tracts to have an effect in who is elected, because they would be under this exhibit with a predominantly Anglo affluent area, and they have no community of interest

at all.

Q. In terms of registered voters and turn-outs, would it be fair to say that Mexican-Americans are registered in far fewer numbers and they turn out in fewer numbers than the more affluent Anglos in the bay front area?

A. Traditionally this has been the case, especially in view of the registration laws we have had in the state until just very, very recently we were able to pass a meaningful Voter Registration Act, but the rule and not the execption has been by and large the people have not been able to participate in large enough numbers, as compared to the more affluent residents that live in the south side Ocean Drive area of Corpus Christi.

Q. There has been testimony during the trial about a corridor area which was described in this case and also in the Cisneros school case. Can you describe for the Court generally in terms of census tracts where the corridor area lies?

A. The corridor area essentially lies in what has been referred to as -- well, for the most part in 48-A of the exhibit -- I'm sorry -- 48-B. I'm a little confused -- I'm sorry -- census was changed.

Q. I'll rephrase the question. Would it be fair to say -- well, first of all, when this plan which has been characterized as the MALDEF plan was drafted, were you

consulted while that plan was drafted?

A. Yes, sir.

Q. Was one of the considerations to try and bring together the corridor area?

A. That's true.

Q. And is that because that corridor area has specific interests?

A. Yes, the corridor area, which consists by and large of Mexican-Americans and blacks and low-income whites, have what I interpret as a community of interests.

Q. Would it be fair to characterize District A in the MALDEF plan as an attempt to bring together that corridor area into one district? Would that be fair to say?

A. Knowing Chorpus Christi as I do, it definitely would.

Q. O. K. Can you describe for the Court the effect that the Defendants' alternate plan here has on that corridor area?

A. What it would do is it would limit the possibility of the large number of Mexican-American and black there from having an opportunity to elect two Mexican-Americans, which would be the case under the MALDEF plan but not under the -- whatever the exhibit number is, the Hale.

Q. Well, would it be fair to say it would split

the corridor area about in half?

A. It would split the corridor area.

Q. Can you think of any community of interest to tie Robstown in with the bay area?

A. I cannot think of any. In fact, that is the main reason why I opposed this plan. I just do not feel that it is fair for the people in that area, for the predominantly Mexican-American and low income, to be tied in as one-third or a minority with a much larger very affluent area, the most affluent area in Corpus Christi. It will do nothing more in my opinion than just disenfranchise those people instead of tying them in with other census tracts in which they would have a greater community of interests.

Q. Do you have anything else you would like to say in favor of the MALDEF plan, Representative Truan?

A. Well, the MALDEF plan in my opinion would allow the citizens of Corpus Christi and Nueces County to more effectively work in the particular areas for whoever is running in that area. It will benefit as much the minorities, the Mexican-Americans and the blacks, that live predominantly in the corridor area, as well as out in West Nueces up in the Robstown area, like I mentioned, and at the same time in the deep south side where you have the more conservative, more affluent, where the most Republicans live, and opportunity for them to be able to participate in an

election of one that runs in that particular area. To me the MALDEF plan would in my opinion meet the needs of what we want to have in single-member districts.

Q. So there's no question you favor the MALDEF plan. Is that correct?

A. Yes.

Q. You have been in touch with other Mexican-American leaders in Corpus Christi. Is that correct?

A. Yes, I have.

Q. Can you describe their responses to these plans?

A. When I met with Mr. Hale and Mr. Salem last Thrusday night, we worked several hours trying to get a consensus on redrawing the lines. This is the first time I had an opportunity to work with Mr. Hale. He had submitted his plan to the Court without my having an opportunity to look at it, and I understand now that it was a sealed plan mailed in in December, of which I had not been advised or had an opportunity to comment on it, so I welcomed the opportunity last Thursday to work with Mr. Hale and Mr. Salem on what we might be able to come up with.

My consultation with members of the community by phone, particularly leaders whom I trust their judgment who have been in politics much longer than I have, people like Dr. Hector Garcia, founder of the G.I. Forum, people

involved in the community like Tony Canales and Rudy Garza and James Deanda, an attorney, and Dr. Clotilde Garcia, as well as communicating by letter with another person or persons, Mr Paul Montemayor, active with the United Steel Workers of America, Mr. Solomon Ortiz of Robstown, who is a County Commissioner, the first Mexican-American County Commissioner of our county. I wanted to have their opinion, and by and large they were greatly opposed to having the Robstown area, Census Tracts 56 and 57, together with the deep south side, a more affluent area of Corpus Christi, and I advised then Mr. Hale and Mr. Salem I would not be able to support this plan in view of the fact that not only does it do harm, as I mentioned, to the people in the census tracts but those that are involved in the community much longer than I, likewise, did not support it.

MR. KORBEL: I have no further questions.

THE COURT: Any cross-examination?

MR. YORK: Your Honor, what we would like to do is call Mr. Hale very briefly in rebuttal, I think, rather than cross-examine Mr. Truan, if we may.

MR KORBEL: Are we going to have rebuttal?

JUDGE JUSTICE: Well, let's go ahead and hear it.

JUDGE GOLDBERG: We want to have the full

facts.

Go ahead, call Mr. Hale.

(WITNESS STANDS ASIDE)

L. DeWITT HALE,

a witness recalled by the Defendants, having been previously duly sworn, resumed the stand and testified further as follows:

DIRECT EXAMINATION

BY MR. YORK:

Q. You have heard the testimony given by Representative Truan. Is there anything about that testimony you would like to comment on for the Court?

A. Well, there were one or two comments, for whatever value they might have for the Court. Tying Robstown in with the southern end of Corpus Christi is certainly not going to deprive them of adequate representation. It will have exactly the opposite effect. It will be a situation more of where the tail will wag the dog. The south side of Corpus is pretty evenly split along political lines, which means if there are candidates running from two

political complexions in that district, the one to carry Robstown would be the winner. Whoever is representing that district, if it was drawn this way, I assure you they're going to give a lot more time and attention to Robstown's problems than they do the south side of Corpus Christi problems, so from the standpoint of saying that they have no adequate representation under the plan, I violently disagree with that, because I think they would be more than adequately represented. The splitting of the corridor area he mentioned a moment ago is done only to the extent of taking about one or two census tracts on the northeast off of what would be Mr. Truan's district under this plan and adding some to the northeast so that basically the corridor, as it is outlined, would still be in what is now Mr. Truan's district and would still be given the same able representation that Mr. Truan has been giving that entire county for the last six years.

Despite some of our minor differences on this plan, Mr. Truan has done a very able job representing his county, and he and I have had very few differences politically.

Q. Anything else?

A. That's all.

MR. YORK: Thank you, Your Honor.

Thank you Representative Hale.

(WITNESS STANDS ASIDE.)

JUDGE GOLDBERG: Now, does that ---? Are we all complete on testimony?

MR KORBEL: I have no further witnesses. I would like to say a few words in favor of the plan. That's all.

JUDGE GOLDBERG: Well, Mr. Korbel, I don't want to deny you the right to argue, but keep it short if you can.

MR. KORBEL: The only thing ---.

JUDGE GOLDBERG: Really, you've said it four or five times already, but go ahead.

MR KORBEL: The only thing I want to point out to the Court is that the record indicates the area south of Webber Road, which is primarily the Gulf front area that we're talking about here, complies what Dr. Cotrell termed as the highest incidence of racial voting, and Representative Hale, while I respect his opinion, it's not borne out by the record, Your Honor.

JUDGE GOLDBERG: Now, does anyone else feel the urge to speak?

Do the Plaintiffs-Intervenors rest?

MR RICHARDS: Oh, yes, Your Honor. We do join with MALDEF in Nueces County in support of the plan.

JUDGE GOLDBERG: The MALDEF plan?

MR. RICHARDS: Yes.

JUDGE GOLDBERG: Mr. Bonner, do you have anything further?

MR.BONNER: No.

JUDGE GOLDBERG: Mr. Korbel?

You've had your last word?

MR KORBEL: Yes, Your Honor.

JUDGE GOLDBERG: Mr. York and Mrs. Levatino?

MR. YORK: Your Honor may recall we mentioned earlier this morning the problem of filing deadlines. We have nothing further on ---.

JUDGE GOLDBERG: We're going to get to that in a little bit.

MR. YORK: All right.

JUDGE GOLDBERG: Let's leave that aside for the moment. You have not heard the last word on that.

MR. YORK: I was afraid of that.

JUDGE GOLDBERG: Well ---.

MR. YORK: No, Your Honor, we would like an opportunity -- we would formally rest at this time subject to those problems. We would like to have an opportunity to go through the exhibits.

JUDGE GOLDBERG: Oh, sure, get your record

-- everyone will have that opportunity.

What's the matter with you now?

MR.RICHARDS: On the matter of attorneys' fees, I do have a stipulation with the State in terms of my hours in this case in the event the Court should order attorneys' fees, which I should like to get into the record, if I may. Would I be allowed to put them in?

JUDGE GOLDBERG: Put it in.

MR.RICHARDS: I have indicated to the State that my time records reflect that I have spent 225 hours of lawyer time, my time, since this case was reopened, and we submit that as time devoted to the case, and the State has agreed that any lawyer is certainly worth $40.00 and hour, and in my case it would probably be sixty-five or seventy, but probable forty will be adequate, Your Honor.

JUDGE GOLDBERG: Now, is there any other housekeeping detail?

MR KORBEL: Your Honor, we haven't entered into a stipulation on attorneys' fees yet. I hope that we can submit that to the Court.

JUDGE GOLDGERG: We'll get to that a little bit later, too.

Mr. Gladden, I assume you have said

everything you care to?

MR.GLADDEN: Your Honor, I have said everything I have to say, except in connection with Counsel's idea about filing deadlines, and I ---.

JUDGE GOLDBERG: Before we get to that, I was calling the roll. I didn't want to discriminate against anybody.

MR. GLADDEN: No problem, no questions.

JUDGE JUSTICE: Mr. Crawford?

MR. CRAWFORD: Your Honor, it might be in order since Representative Hale is here and Mr. Truan, we might want to put them on as witnesses insofar as the issue of filing deadlines.

JUDGE GOLDBERG: I don't think we need that. What would you prove by them, Mr. Crawford?

MR. CRAWFORD: It seems the testimony by all of the representatives is that there is no question whatsoever about their agreement for single-member districts, so it leaves the question now of why shouldn't we move forward.

JUDGE GOLDBERG: Well, I think that's pretty clear. We understand. Everybody's position has been pretty well declaimed. This is something else I think we ought to consider some other problems in

connection with it.

I want to be sure now that in Tarrant County we have the Escalante plan. Is that right? And we have the Republican plan. What else in Tarrant?

MR. BONNER: The Gaskin.

JUDGE GOLDBERG: Gaskin, that's right. That's three.

Then Jefferson.

MR. YORK: Well, we have the State's in Tarrant County, the State's plan.

JUDGE GOLDBERG: Oh,yes, the State plan. Do you know that exhibit number?

MR. YORK: Briscoe-White No. 1. It has been added in as 43 and 44.

JUDGE GOLDBERG: We have four then, the Escalante, Republican, Gaskin and the Briscoe-White No. 1.

MR.RICHARDS: In Jefferson County we have a Plaintiffs' plan ---.

JUDGE GOLDBERG: That's the Wright plan.

MR.RICHARDS: The Wright Intervenors plan. Then we have the Republican plan, and we have what I had mislabeled the County Commissioners plan, which has become the State plan.

JUDGE GOLDBERG: The county what?

MR.RICHARDS: I had called it inadvertently the County Commissioners plan, but it's the State plan, so there are three plans.

JUDGE GOLDBERG: Three plans in Jefferson. I'm going to call it the Wright plan for shorthand, the Republican plan and the State plan in Jefferson. McLennan.

MR. RICHARDS: Well, we have the Wright -- the collective plans on the Plaintiffs' side joined in by the State, and then you have the County Commissioners Moore plan.

JUDGE GOLDBERG: And the Republican.

MR. RICHARDS: I thought yours was the same as ours.

MR.GEORGE: There's one slight deviation.

JUDGE GOLDBERG: And Travis.

MR.CRAWFORD: We have the Chapman and Wright plan.

JUDGE GOLDBERG: They're the same?

MR.RICHARDS: Yes.

JUDGE GOLDBERG: What else?

MR. GEORGE: We have the Republican plan.

JUDGE GOLDBERG: We don't want to forget the

Republicans.

In Lubbock everyone was in agreement on Lubbock, were they not?

MR. KORBEL: No, no, Your Honor.

JUDGE GOLDBERG: Oh, no.

MR.KORBEL: There was a State plan and then the ---.

JUDGE GOLDBERG: State plan, that's right.

MR.KORBEL: --- the Moreno plan -- MALDEF plan.

JUDGE GOLDBERG: Is it the MALDEF?

MR.KORBEL: The MALDEF plan is what it has been referred to.

JUDGE GOLDBERG: Yes, I knew we had the State plan.

El Paso.

MR.GEORGE: Don't forget the Republican.

JUDGE GOLDBERG: El Paso.

JUDGE JUSTICE: We have a Republican plan in Lubbock County.

JUDGE GOLDBERG: I got it.

El Paso?

MR. KORBEL: The Coleman plan, Your Honor, has been adopted by MALDEF and all the other Palintiffs, including the Republicans. The State

has no plan.

JUDGE JUSTICE: The State has no plan.

JUDGE GOLDBERG: The Republicans?

MR. GEORGE: We adopted the one plan.

JUDGE GOLDBERG: All of you have one plan in El Paso.

And in Nueces we have Exhibit 50, the State plan. Is that right?

JUDGE WOOD: They're both State plans. You have the Hale plan and the Truan plan.

JUDGE GOLDBERG: That's right. Exhibit 50 is one plan, and Representative Truan -- it's the MALDEF plan.

MR. KORBEL: Yes.

JUDGE GOLDBERG: Which Representative Truan adopted. Is that correct?

MR. KORBEL: Yes, the State also adopts that, I understand.

(LAUGHTER)

JUDGE GOLDBERG: We have that fully in mind.

MR. GEORGE: We also have Republicans in Nueces County.

JUDGE GOLDBERG: Don't let me forget them, Mr. George. I don't mean to.

The Court will take about a five-minute

recess. I really wish you would stay in the court-room unless you have some urgency about leaving. I want to come back and make some announcements to you all, at which time we may have to go into the possibilities of a post-ponement. They may pass into vestitude or some-thing. Let's wait and see until I come back and make the announcements with respect to some of the basic matters that are before us.

(REPORTER'S NOTE: The Court then, at 2:55 o'clock, P.M., January 28, 1974, recessed until 3:00 o'clock, P.M., the same day, at which time it reconvened.)

JUDGE GOLDBERG: Be seated.

First of all, I really want to say that I appreciate the patience and cooperation bringing us to this hour. Time is very essential, it seems to us, no matter how you look at it, and I want to indicate to you all right now what the majority decision of the Court is with respect to every one of the legislative districts that are in controversy in the hope that maybe this

postponement problem may disappear.

It seems to me that -- I'll be open to hear why this is such an urgent matter. I have an open mind, and I'm sure the rest of the Court does, too, but I thought in analyzing it you ought to know, because we're going to have to put this out very soon, and I want you to have plenty of time to go heavenward to the Supreme Court for any stays, do anything you want, and that's one of the reasons why I felt under a very severe pressure to come out with something so that you have plenty of opportunity to go to the Supreme Court for stays or anything else. I think that's only fair.

With respect to -- I'm going to go by counties -- with respect to Tarrant County, the majority Court is of the opinion that the Escalante plan should be adopted.

With respect to Jefferson County, the majority of the Court is of the opinion that what I call the Wright Intervenors plan should be adopted.

With respect to McLennan County, the Wright Intervenors plan should be adopted.

With respect to Travis County, the Chapman-

Wright or the Wright-Chapman plan should be adopted.

With respect to Lubbock, the MALDEF plan.

With respect to El Paso, the MALDEF-Coleman or Coleman-MALDEF.

And with respect to Nueces, the MALDEF plan.

It is our contemplation that the majority opinion of the Court together with the Order -- and the Order will have attached to it as exhibits the reapportionment for each of these counties by the end of the day tomorrow, enabling anyone to take any further steps they want.

Judge Wood dissents and will file certainly by the end of the week ---.

JUDGE WOOD: By noon Friday I will have my dissent, realizing that the Defendants may want a stay, I'll start dictating tonight, and I have a draft of the opinion, and I should have it being typed on Wednesday, and I'll have it filed by noon Friday.

JUDGE GOLDBERG: Now, Mr. York, that leaves open, and I said I would hear from you further as to why you think it is urgent that we move back to February 4th, I believe it is, the filing date, which is a very, very short period of time. I don't

know, for example, suppose you went up for a stay. I don't know just where everything would be -- in a high state of confusion, it would seem to me. I'm just trying to look at it from everybody's point of view. If you have any comments, I would be very glad to hear it.

MR.YORK: Your Honor, we had intended and still hope to be able to put Secretary of State White on the stand to make part of our record about that aspect of the case. He, of course, is the chief election officer of the state and is most familiar with the problems of enforcing the various laws of the state.

JUDGE GOLDBERG: Surely.

MR. YORK: I think it makes a more clear presentation.

JUDGE GOLDBERG: Well, is he here?

MR. YORK: Yes, he's here and has been here throughout the day.

JUDGE GOLDBERG: Well, that's fine.

MR. RICHARDS: May I say that we have no objection in light of the Court's announcement being on us this quickly. We have no objection to restoring the February 4th filing date. I'm speaking for the Plaintiffs I represent.

JUDGE WOOD: And if my dissenting opinion is going to be filed by noon Friday, the opinion will be complete long prior to that time, and if everybody wishes for us to take this action, we'll move is back to the 4th.

JUDGE GOLDBERG: Sure, I'll be glad to.

MR. HILL: I'm a great believer, Your Honor, when parties come to an agreement, it's time to adjourn.

JUDGE GOLDBERG: Mr. Hill -- General Hill, I agree with you, as usual, a very wise statement. Now, Mr. Korbel, do you have any ---?

MR. KORBEL: All of the parties are in agreement with that also, Your Honor.

JUDGE GOLDBERG: Well, I never thought we would get unanimity here. It seems as though we have done the inevitable.

MR. GEORGE: The Republicans are not ---. (LAUGHTER)

MR.GEORGE: We would prefer to have the Court's Order to be in effect as it now stands providing for the February 18th deadline. We have arranged our primary schedule, our filing machinery on that basis and assumed that the Court would stay with its Orders. We have no

violent objections to reworking it, but we had made arrangements on that basis.

JUDGE GOLDBERG: How much trouble would it be, Mr. George?

MR. GEORGE: I don't have any real idea. That's my instructions from my clients. Their position was that they had made the changes based on that.

JUDGE GOLDBERG: Let's see. When is the 4th?

MR. GEORGE: The 4th is a week from tomorrow, as I recall.

JUDGE GOLDBERG: Well, we have a pretty fast communications in this day and time, I believe.

MR. GEORGE: I suppose that's correct.

JUDGE GOLDBERG: You don't think the heavens would fall, do you, Mr. George?

MR. GEORGE: I'm sure the heavens wouldn't fall.

JUDGE GOLDBERG: I wouldn't want that to happen.

(REPORTER'S NOTE: The Court here confer out of the hearing of the court reporter.)

JUDGE GOLDBERG: We are entering an Order revoking the postponement for the filing date. We did a quicker job than we thought we would and, once again, thank you very, very much for your cooperation.

MR. YORK: Your Honor, if I might ask one thing. The question was asked by Your Honor, I believe, in one of my cross-examinations about whether or not the lack of any residency requirements ---.

JUDGE GOLDBERG: Oh, the Order will take care of the fact that you need not be a resident of the district for this election, just as the Order in the original case provided. The opinion also -- I'll tell you this, because the attorneys' fees have been mentioned. The majority opinion severs the issue of attorneys' fees for separate consideration at a later date under Rule 52.

MR KORBEL: Your Honor, I have one further question with respect to residence. In a county like El Paso where literally one-fifth of the county was removed and put in with a couple of smaller counties, there possibly might be some people living in that part of El Paso County which

was not originally included in the multi-member district and when they were moved into the district, had they known single-member district existed, if the Court would allow ---.

JUDGE GOLDBERG: I think the Court here has involved itself in an election machinery which, of course, we hesitate to do, but we feel we have to do it, and the least tinkering we do, the better. And it seems to me to keep the residence requirements to two years is not too onerous on anybody.

MR. KORBEL: Thank you, Your Honor.

JUDGE GOLDBERG: Now, does anybody else want to say anything before we adjourn?

Thank you again, and the Court is adjourned.

(REPORTER'S NOTE: The Court then, at 3:30 o'clock, P.M., January 28, 1974, adjourned.)

* *

UNITED STATES DISTRICT COURT)
)
EASTERN DISTRICT OF TEXAS)

OFFICIAL REPORTER'S

CERTIFICATE

I, DOROTHY U. DAUGHERTY, Official Court Reporter for the United States District Court for the Eastern District of Texas, do hereby certify that the above and foregoing 237 pages of typewriting contain a true, correct and complete transcript of the proceedings had in the above-styled and numbered civil causes.

WITNESS my Official signature in the City of Tyler, Texas, on this the 19th day of April, 1974.

DOROTHY U. DAUGHERTY

IN THE UNITED STATES DISTRICT COURT

FOR THE WESTERN DISTRICT OF TEXAS

AUSTIN DIVISION

FRANK ESCALANTE, ET AL	
VS.	No. A-73-CA-115
MARK WHITE, ET AL	

ORAL DEPOSITION

OF

MR. JOYCE WENDELL SIFFORD

ORAL ANSWERS AND DEPOSITION of the witness, JOYCE WENDELL SIFFORD, in answer to questions propounded to him in the above entitled and numbered cause, taken by the Plaintiffs before Gaylord Sturgess, a Notary Public in and for Tarrant County, Texas, in the Law Offices of Don Gladden, 702 Burk Burnett Building, Fort Worth, Texas, on November 6, 1973, pursuant to the hereinafter set out Agreement of counsel:

APPEARANCES

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REPUBLICAN LEGAL COMMITTEE
& TARRANT COUNTY REPUBLICAN
REDISTRICTING COMMITTEE

STIPULATION

IT IS STIPULATED AND AGREED by the parties to the above entitled and numbered cause, through their attorneys appearing herein, that the Oral Deposition of the within named witness may be taken at this time before Gaylord Sturgess, Official Court Reporter, United States District Court for the Northern District of Texas, and a Notary Public in and for Tarrant County, Texas.

IT IS FURTHER STIPULATED AND AGREED that all formalities with reference to the taking and returning of said deposition are hereby waived except as to form of questions or responsiveness of answers; and that the witness may return and sign his deposition before any qualified Notary Public of the State of Texas.

IT IS FURTHER STIPULATED AND AGREED that the questions and answers so propounded and given, together with all other proceedings had, when transcribed by the Court Reporter, may be used in either or all of the cases pending herein by either party hereto, subject to such objections as could be made if the witness were on the stand testifying in person, without the necessity of filing written objections to any questions or answer, and without the necessity of making objections at the time of taking said deposition.

MR. JOYCE WENDELL SIFFORD,

called by the Plaintiffs, having first been duly sworn to testify the truth, the whole truth and nothing but the truth, testifies as follows, to-wit:

EXAMINATION

BY MR. GLADDEN:

Q. State you name, please.

A. Joyce Wendell Sifford.

Q. Mr. Sifford, I'll ask you if you're familiar with the deposition-taking process?

A. Yes.

Q. You understand, of course, that I'm going to ask a series of questions,that you'll answer them and that whatever your answers are may be used in the trial of this case and may be read into the record for all purposes just as though you were present at the trial of the case and giving testimony in open court?

A. I understand.

Q. All right. Mr. Sifford, in the event that I ask any question that there's any question as to whether you understand the question or not, please ask me to rephrase the question or tell me what it is that you don't understand about the question and I'll attempt to redirect it in a manner that you do understand it.

A. All right.

Q. All right. Where do you live, Mr. Sifford?

A. I live at 532 Norwood Drive in Hurst, Texas.

Q. All right. In connection with your name, Joyce Wendell, you're commonly known in the community as J. W. Sifford, is that right?

A. Correct.

MR. YORK: By your choice, I imagine.

Q. When did you first move to Tarrant County area?

A. In 1947.

Q. All right. I'll ask you what had you been doing immediately prior and where did you live immediately prior to your moving to Fort Worth or the Fort Worth area?

A. Well, I had just came out of the Navy, and my home was in East Texas in Henderson County, and after I got out of the Navy I went to Dallas Aviation School and got -- where I got my license, A&E Aircraft Mechanic license, and after finishing that I came to Fort Worth and went to work for what is now General Dynamics; it was then Convair.

Q. All right. In that connection, what capacity, what type of work did you do at Convair?

A. I was aircraft assembler.

Q. All right. I'll ask you how long were you employed at General Dynamics or Convair?

A. Roughly four years.

Q. Then what did you do?

A. I went to work for American Airlines as an aircraft mechanic.

Q. All right. During the time that you worked for General Dynamics, I'll ask you whether or not you were a member of any union or labor organization?

A. Yes. I was a member of the International Association of Machinists which was affiliated with the AF of L, American Federation of Labor.

Q. In that connection, were you active politically --

A. No.

Q. -- in the union?

A. No, not at that time.

Q. All right. After you left General Dynamics and went to work for American Airlines, I'll ask you whether or not you became a member of any labor union or organization?

A. Yes. I became a member of the Transport Workers Union which was CIO union.

Q. All right. In that connection, did the Transport Workers Union have a contract with American Airlines --

A. Yes.

Q. -- relative to --

A. They did and still do.

Q. All right. And they represented the workers in the job classification that you were employed in, is that correct?

A. Correct.

Q. All right. I'll ask you whether or not you got active in labor union activities after you went to work for American Airlines?

A. Yeah, shortly after, after I went to wor for American Airlines.

Q. All right. In that connection I'll ask you whether or not you were elected by your loca to any particular positions or jobs?

A. Well, the first position I was made a delegate to the CIO Industrial Union Council which was an organization formed of all the CIO local unions in the county.

Q. All right. In that connection, can you tell us about what year you became a delegate to the Industrial Union Council?

A. It was around 1956.

Q. All right. What was the purpose of --

A. Sometime in the middle 50's.

Q. What was the purpose of the Industrial Union Council?

A. Well, it was to further anything that's good for organized labor. This would include civic enterprises, public relations, community services in a legislative and, of course, political.

Q. All right. I'll ask you at the time that you became a delegate to the Industrial Union Council, had the

AF of L and CIO merged at that point?

A. No, they did not. There was a corresponding organization of the AF of L in the county at the time known as the Fort Worth Trades Assembly.

Q. And did they also have an organization that concerned themselves with --

A. Yes.

Q. -- political activities?

A. Similiar. There was a political -- each organization had a separate political branch. It was PAC-CIO, the Political Action Committee.

The AF of L had, I believe, what was known as Labors League for Political Education, something like that. These were political branches.

Q. So the Industrial Union Council was composed of representatives from the various local union, is that correct?

A. Yes.

Q. And in turn there was also a Political Action Committee.

How was it composed? Did it come out of --

A. Yes. It was a committee of whole, so to speak, of the -- the same delegates who where delegates to the Industrial Council were also delegates to the PAC.

Q. All right. So in the 50's or in about 1956, you wore two hats in terms of delegation from your local union,

that was a delegate to the Industrial Union Council and also as a delegate to the Political Action Committee of the CIO?

A. Right.

Q. All right. I'll ask you if you participated during that period of time in any kind of a canidate selection or slate-making procedure relative to any kind of political races?

A. Yes. The first such meeting, I recall attending, was a joint meeting with the AF of L group wherein as I recall there wasn't any screening of candidates but we discussed the candidates for the State Legislature as well as for other offices at the time.

Q. By screening of candidates, do you mean actual appearances?

A. Interviews and things like that there.

Q. All right.

A. As I -- you know, this was my first association with this political process. I was learning politically then and so I don't recall exactly, but I assume that various leaders had had private conversations with the various candidates for office and these were -- this was what led to the meeting, the joint meeting, was the two groups discussing who we should support, feeling that the two groups both supporting the candidate would, of course, be stronger.

Q. In that connection, I'll ask you whether or not this was a meeting of the full Industrial Union Council and the

full Trades Assembly or was it a select committee of representatives of each?

A. It was a select committee. It wasn't the full body.

Q. All right. And how were you chosen to serve on that committee, do you recall?

A. I was appointed by the president of the Industrial Union Council.

Q. All right. Did the organization subsequently support candidates that were --

A. Yes. This -- we in turn went back to the full body of the Industrial Union Council as the AF of L group did to theirs, and made recommendations of what the decision that was reached at this committee, and this recommendation was adopted by the full body.

Q. All right.

A. And we did support a group of candidates.

Q. All right. Now, in that connection, I'll ask you whether or not this meeting took place prior to the Democtatic Primary?

A. Yes.

Q. All right.

A. The first Democratic Primary.

Q. All right. And I'll ask you whether or not your concern and the selection process took into consideration any candidates other than people in the Democratic Primary in '56?

A. Candidates other than in the Democratic Primary?

Q. Yes.

A. No, not to my knowledge.

Q. So the slate or the meeting with AF of L was to decide which Democratic candidates you would support, is that a fair statement?

A. Right, oh, yes.

Q. As a matter of fact, do you recall whether or not there were any candidates on the Republican ticket?

A. I don't believe there was.

Q. In 1956, the Republican party probably didn't even have a primary, did it?

A. I don't believe so.

Q. All right. Now then, did you participate after the submission back to the Industrial Union Council and the adoption of the recommendations, did you participate in the political activities of your organization --

A. Yes.

Q. -- as far as candidates for public office are concerned in 1956?

A. Yes. We worked trying to get them and people we had voted to support, we tried to help get them elected.

Q. All right. What did the organization and what did your people do as to these candidates that you had recommended?

A. We had -- we had some funds that we give them.

These were funds that were raised through voluntary donation of the members. At that time it was, you know -- it's now become C.O.P.E. I think everyone is familiar with C.O.P.E. It was PAC, (SPELLING) P-A-C then.

Everybody remembers CIO-PAC because of Allen Shivers used to run against the CIO-PAC. And we had money which was voluntarily contributed by Union members that we did donate; it wasn't very much.

Q. All right. Did you --

A. We probably give more in time and effort. We spent a lot of time -- the various members of the local union spent a lot of time working for the candidates, nailing up signs, handing out material, the various things that -- the kind of leg-work that's necessary to get a political candidate elected.

Q. All right. In addition to that, that particular year somebody furnished your select candidates a hotel room from which to run, did they not?

A. Yes, yes, they did. There was a hotel room in the Texas Hotel, I believe.

Q. All right. Now then, in addition to that did you take any steps to acquaint your membership or the memberships of the CIO --

A. Yes.

Q. -- about your endorsement?

A. We made up what is commonly known as a slate card

and a slate -- small card that had the list of the candidates and the offices they were running for that we were supporting, and we tried to get these in the hands of all of our members.

Q. Do you recall how those were distributed in 1956?

A. In 1956 I'm sure that they were distributed individually hand-to-hand, each -- every local union received a copy of supply of the cards, and they in turn were to -- got them to their members.

It was done by hand and it was done -- at that time it was -- the labor endorsement was so unpopular we tried to avoid letting the news media know who we were supporting because it would hurt our candidates.

And so we purposely did it in such a manner -- tried to do it in such a manner where that it wouldn't become widely known --

Q. All right.

A. -- because we didn't want to hurt the people we were supporting.

Q. All right. I'll ask you if you participated in this same procedure in 1958?

A. Yes.

Q. And as a matter of fact --

A. Every year since then.

Q. In the fall of 1956, the State AF of L and CIO merged into one body, did they not?

A. Well, yeah. The State AF of L -- you know, it started out with the National AF of L-CIO merging, and then the State AF of L-CIO merged, and then the County AF of L-CIO merged.

Q. All right. Actually, the National AF of L-CIO merged in early 1956, sometime in the fall of '56 the State and almost simultaneously --

A. I'm not sure of the date but I know this was the sequence.

Q. After the primary?

A. Yes, it was after the primary.

Q. All right. As far as the local merger of the CIO and the AF of L, it was done sometime subsequent to the Democratic Primary in 1956?

A. Yes.

Q. All right. And out of that was there a body created to be substituted for the Industrial Union Council --

A. Yeah.

Q. -- and the Trades Assembly?

A. This was the Tarrant County Central Labor Council, AF of L-CIO, the full title.

Q. All right. And since 1956, the collective or the combined labor organizations in Tarrant County have identified themselves county-wide as the Tarrant County Central Labor Council, is that correct?

A. Correct.

Q. Now there have been instances since then where some local unions failed to affiliate --

A. Uh-huh.

Q. -- or some national unions?

A. Various ones have been in and out and some are out now and some are in that were out and so on.

Q. All right. That's true on a national, state and local basis?

A. Yes.

Q. Okay. But following the merger and the creation of the Tarrant County Central Labor Council, I'll ask you whether or not you have been a delegate to that Council and as such participated in the slate-making process every election year since 1956?

A. Yes, every year since then.

Q. All right. In the years 1958 through the current time, has the slate-making procedure been generally the same?

A. Generally. Sometime along the way -- and I can't really say exactly when it happened, but we went to what I had referred to breifly awhile ago what we call a screening procedure where we invite all the candidates to come before a committee appointed by the president of the Central Labor Council. And after listening, interviewing all the candidates, this screening committee then made recommendations to the full

body, and the full body then passed on what the -- generally, they would accept the recommendation of the screening committee. They didn't have to and I don't believe they always did, but generally they did.

Q. All right. I believe they always did probably in the House of Representatives so far as you know?

A. Yes, as fas as I know.

Q. Might have had a difference on a Senate race of two once in awhile?

A. Yeah, Senate race or two and County Commissioners.

Q. All right. By House of Representatives, I'm talking about the State House of Representatives.

A. Uh-huh.

Q. All right. Directing your attention to 1961, I'll ask you to tell the Court whether or not you were elected president of the Tarrant County Central Labor Council in that year?

A. Yes, I was.

Q. All right. And I'll ask you if you, in 1961, had occasion to participate in the slate-making procedure for the election year 1962?

A. Yes. This was the year that a group from the Tarrant County Central Labor Council and from the Machinists Non-Partisan -- Internaional Association of Machinists this is, Non-Partisan League who were not affiliated with

the Central Labor Council at that time, met with a group of leaders, business-type leaders in the Democratic Party, and not -- we didn't make a formal coalition, but we generally agreed on the people who were running for the House of Representatives at that time, more or less based on -- there were certain candidates who were in State Legislature that we wanted left in and there were certain that they wanted left in, and we were trying to come to a meeting of the minds, so to speak, so that we wouldn't be out there fighting one another.

And we kind of worked it out so that even though we were -- wouldn't necessarily all be supporting the same candidates in certain races, they didin't put in any candidates against the people we were real fond of and vice versa with them.

Q. Would you tell the Court --

A. It so happened that we worked it out where there were six or seven races. There was one race -- it was an open race and everybody just kind of split up in it.

I think there was three people from organized labor even in it and several business types running, and this race -- but of the six that we generally agreed on, the six people that we were generally for was elected.

Q. All right. In that connection, again we're talking about the Democratic Primary, are we not?

A. Yes, this is in the Democratic Primary.

Q. And that was in 1962?

A. Yes.

Q. And this meeting took place in advance of the Democratic Primary, is that correct?

A. Uh-huh, yes.

Q. All right. Would you tell the Court some of the people -- you were present at this meeting, were you not?

A. Yes, I was present at the meeting. I was president of the Central Labor Council at the time.

Q. Would you tell the Court some of the other people?

A. Some of the people were Scott Sayers who was the Tarrant County Democratic Chairman at the time and later on became assistant to Governor Connally; Garrett Morris, who was the head of the Morris Plan Insurance Company at the time and later on became Highway Commissioner and at the present time I believe is Welfare Commissioner; Hunter McLain, who was in the insurance business and later on became State Commissioner of Insurance under John Connally; Bill Brown, who's a well-known attorney here in town; and maybe two or three others, I can't recall.

Q. All right.

A. Those were some of the people and those were some of the better-known members of the Democratic Party at the time.

Q. All right. In that connection, is it my understanding that while you did not endorse candidates in that arrangement that you agreed not to field candidates against

selected people, is that correct?

A. Yes, uh-huh; based on the fact that some of the people that they felt strongly about were in our opinion not all that bad. And they in turn felt that, you know, people who had a good voting record for organized labor, they felt like that they weren't some people that they couldn't live with, that they weren't really all that bad.

And so, based on that fact and to keep peace in the Democratic Party, we did have an unofficial agreement that did stand up so fas as I know.

Q. Prior to that time --

A. At least it stood up enough that we got six people elected out of seven.

Q. All right. Prior to that time, I'll ask you whether or not you were aware of the activity or that activities had been taking place in the business community similar to the activities that took place in the labor community relative to the selection process?

A. Yes, I was aware of it.

Q. Will you tell the Court how you were aware of it or what facts you know in connection with those type activities in the business community?

A. Well, I guess you could say I became aware out of just listening to people, candidates and others involved in politics talk. It was always known -- well-known throughout

the -- among all those people who were knowledgeable politically in this county, who Seventh Street, so to speak, was going to support, even though there never was an official organization like, you know, like some cities have where a group of businessmen get together and form a Citizens Charter Council in Dallas, for instance, there was never any formal organization here.

But, you know, it functioned well enough that everybody always knew -- I say everybody, everybody politically knowledgeable was always well aware of who the business community within the Democratic Party was going to support. And since that was the only game in town, the Democratic Primary, well, this was everybody.

Q. Were there certain precincts that the business community had particular influence on that you could check the results of those votes in that precinct?

A. Yeah. We never could figure out how that they kept such a tight rein on their people, but these were precincts where the medium income was always very high. The so-called silk stocking districts. They always voted real strong, pretty well a straight ticket of whoever the business people were supporting at the time.

Q. All right. In that connection, Mr. Sifford, I'll ask you whether or not you are an official of the Democratic Party in Tarrant County?

A. Yes. I'm a member of the Executive Committee,

Precinct Chairman, have been ever since 1962.

Q. All right. And in that connection, you've been active in Democratic Party affairs, is that correct?

A. Yes. I've attended nearly all the State Conventions and all the County Conventions and District Conventions, besides being a member of the Executive Committee --

Q. All right.

A. -- through the years.

Q. All right. Other than in 1962, did you have occasion or are you aware of any instance where the slate-making procedure of the labor community made any kind of arrangements with the conservative community or the business community relative to supporting candidates?

A. No, I don't know of any such. It may have been occasions of maybe some individuals or groups. There's always, you know, certain groups would always work together in politics where there was no --

Q. In addition to the business groups, of course, there are people who have special legislative interests such as car dealers Associations and beer people?

A. Car dealers and beer people, REA, and Osteopaths and MD's, and you name it.

Q. All right. And each of those people tried to --

A. Everybody has got a special interest, except the people.

Q. All right. And each of those people generally align themselves with one of the two slate-making processes do they not?

A. Generally, yes.

Q. In instances where the Labor Council would endorse a slate of candidates, the REA people generally voted the Labor Council's endorsements, is that correct?

A. Right, right.

Q. And because of the peculiar alignment, beer and truck people always supported the same candidates because the same fellow picked those, is that correct?

A. Yes.

Q. But he would sometimes shift from one side to the other?

A. Uh-huh, right.

Q. All right. So with the exception of 1962, there have been two basic slate-making groups, is that a fair statement?

A. Yeah, yeah. You've got the business and labor.

Q. All right.

A. Of course, along with labor generally was minorities and liberals.

Q. All right. In that connection, going back to 1956, there was no, that you were aware of -- or I'll ask you whether or not were you aware of any political organizations or groups

of people in the black and brown community in Tarrant County in an organized manner?

A. I wasn't aware of any officially organized group, but we were always aware and we always -- when we were -- one of the consideration in selecting candidates was always whether or not a candidate would appeal to the black community especially; was back then the Mexican-American community wasn't too large. But we always knew that we had to have the black vote and we always counted on it for the candidate that we supported.

Q. All right. And in that connection, I'll ask you whether or not since you have been aware of the political activity in Tarrant County, up until 1968 had there ever been a black person seek the Democratic nomination for the Texas Legislature?

A. Not to my knowledge. Maybe you might go back to the -- right after the Civil War or something, but --

Q. All right. You're familiar with the history of the Democratic Party here in Tarrant Count are you not, generally?

A. Yeah.

Q. And so far as you can recall and from the historical knowledge that you have, there's never been --

A. I don't ever know of one up until then.

Q. All right. I'll ask you from up to 1968, for the

period of time prior to 1968, whether or not there had ever been a candidate for the Legislature, either in the general election as an independent or Republican or -- that was black?

A. To my knowledge, there was none.

Q. All right. I'll ask you what steps, or did you in the slate-making procedure ever assume the responsibility or your organization ever assume the responsibility of candidate recruitment?

A. Yes.

Q. Can you tell us when that first possibly began and the steps that you took?

A. My first knowledge of that was when leaders of organized labor -- I didn't myself because that was the time that I was just becoming active. But I was well aware of the fact that leaders of organized labor along with some other people were responsible in recruiting Jim Wright to run against Wingate Lucus for Congress.

Wingate Lucus, the incumbent at the time, was very infamous for being anti-labor, and I must say the members, the leaders of organized labor, helped recruit Jim Wright and he did defeat Wingate Lucus and became Congressman.

Q. All right. After that and following that -- that was about 1952 or '54, is that correct?

A. Yeah, I believe, something like that.

Q. And after your election to the Central Labor

Council, I'll ask you whether or not you participated in the recruitment procedure?

A. Yes. I definitely know that as of the time I became president, this was considered to be one of my duties as president of Central Labor Council and still is to this day, is to help recruit candidates for public office.

Q. All right. What is the purpose of, or the test or the measure or the direction that you have relative to who you recruit and what direction you send them and the qualifications for their -- for the recruitment and why you need them?

A. Well, it's very simple. We're interested in passing legislation, we're interested in making changes, and to do that you have to -- you have to win races to pass legislation.

And we looked for people who were -- had the same political philosophy as we did who we felt would vote generally -- although we never expected anybody to be a hundred percent with us, we did look for people that we thought would be with us the majority of the time, and that would win.

Q. All right. And did you recruit people to run against particular officeholders who may or may not be friendly towards organized labor?

A. Oh, yes, the old Samuel Gomper's adage; help your friends and defeat your enemies.

Q. All right.

A. That's what the old fellow said.

Q. All right. Now, directing your attention to 1958, in 1958 there was a black candidate that ran for the Democratic Primary, is that correct?

A. In '58?

Q. Yes. No, 1968, I'm sorry.

A. '68. You did say '58.

Q. All right.

A. In '68, yes, there was.

Q. And would you tell the Court his name?

A. Charles Grays.

Q. All right. And I'll ask you whether or not Mr. Grays was a member of organized labor?

A. Yes, he was a member of the Communications Workers of America.

Q. All right. I'll ask you whether or not you were still president of the Central Labor Council at that time?

A. No, I wasn't.

Q. All right. I'll ask you whether or not you were still a delegate to the Central Labor Council?

A. Yes. I was a delegate and I was on the screening committee to screen candidates to make recommendations that year.

Q. All right. I'll ask you whether or not the Central Labor Council made an endorsement of a slate of candidates in 1968?

A. Yes.

Q. I'll ask you whether or not Charles Gray was on that slate?

A. Yes, he was.

Q. All right. In that connection, in 1968 were all of the labor organizations in Tarrant County affiliated with Tarrant County Central Labor Council?

A. No, they weren't.

Q. The UAW and Teamsters were not affiliated, is that correct?

A. At that time part of the UAW was and part wasn't. And the UAW had the separate -- that was kind of an overlap, really. It was kind of confusing to the locals. There was a couple of the UAW locals who were still in the Labor Council, and they had the unfortunate circumstance of being a part of the UAW organization who fielded one slate of candidates and they were also part of the Central Labor Council who had another slate of candidates.

When I say another slate of candidates, I don't mean entirely different, but there were some deviations on the two slates.

Q. Basically, in the House of Representatives races, was the slate the same?

A. I believe so.

Q. All right. Other than the UAW, the Teamsters, of

course, were not affiliated in '68?

A. No. The Teamsters were not a part of the AF of L-CIO at that time. They dropped out.

Q. All right. In the selection process, did you take into consideration the fact that Mr. Grays was black?

A. Yes.

Q. Now, at that point had you arrived at the stage where you did an actual candidate interview procedure?

A. Yes, yes, we did.

Q. All right. And I assume that after all the candidates in a particular race have been interviewed and considered, there was a meeting of your committee, is that correct?

A. Yes.

Q. Now, how was that committee selected?

A. It was appointed by the president of the Central Labor Council.

Q. All right. I'll ask you if you recall any conversation with respect to Charles Grays' possibility of being placed on the slate and whether he should be put on the slate or should not?

A. Well, we had -- certainly we had this kind of conversation in the screening committee. Is that what you're referring to?

Q. Okay. Yes. Do you recall what the basis was upon placing him on there?

A. Oh, the basis was he was running against an incumbent, Bud Sherman, in particular, who had a very anti-labor voting record, and was also a very strong candidate, former TV star who was very popular even though he was very anti-labor, and we didn't think we could beat him with any candidate, and the only person that would run against him was Charles Grays, a black; like you say, the first black that I know that ran for the Legislature in this county.

And in the conversation we told Mr. Grays that we would support him if he would run against Bud Sherman because we thought he ought to have an opponent, even though we did not feel that Charles Grays could, running at large, have a ghost of a chance of winning it.

Q. Now in connection with a ghost of a chance of winning, was this discussed in the termination?

A. Yes, it was.

Q. And you deviated from your usual procedure of selecting candidates on the basis of ability to win?

A. Yes, we deviated. Because, you know, there's always exceptions to every rule, and we had, like I say, we wanted an opponent, we wanted Bud Sherman to have an opponent.

Q. Did you also discuss whether or not this would attract additional black voter turn-out?

A. Yes , yes, this is true. By that time the black community had become a very recognizable and a very positive

force in Tarrant County politics, and we felt like having a black candidate would help the turn-out in the black community.

We thought that we would -- it would help the other candidates on our slate in the black community to have a black person on the slate with them.

Q. In that connection, did you have any expectation of electing Charles Grays?

A. No, none at all.

Q. And I'll ask you to state whether or not that was in any manner a consideration for his being placed upon the slate, that of his probability of winning?

A. No, no. We conceded the fact that he couldn't win.

Q. All right.

A. But there was, as I have said, there was definite reasons that we wanted him on there.

Q. All right. Now, at the time and during all the time that you've testified to, the Legislative District of Tarrant County was composed of seven members who were elected at large throughout the entire county, is that not correct?

A. Yes, that's right.

Q. All right. And that remained the same in terms of geographic situation of the District up until 1972?

A. Yes. Now, that was when District 42 was created which took part of the county.

Q. All right. Up until 1972 when we talk about the

Legislature of Tarrant County, we're talking about a District composed of the entire county which originally seven members during the earlier members we're talking about were elected at large county-wide --

A. Well, originally six in my -- started out with six, I believe, when I first got active.

Q. All right.

A. I don't remember what year but somewhere along there we got the seventh one.

Q. All right. If you got active along about 1952 or '54, you had six and then in '56 you had seven?

A. Yeah.

Q. And that remained seven probably up until following the 1960 census -- no, 1970 census at which time you got nine, is that correct?

A. I believe we went to eight first.

Q. Okay.

A. I wouldn't --

Q. In any event, it was a county-wide District until '72?

A. Right.

Q. All right. Mr Grays did not win the Democratic Primary, did he not?

A. No. I think he got 20,000 votes, which -- and I don't recall; a very small amount.

Q. All right. Generally speaking, is it a fair statement to say that he got the block black vote, a high percentage in the black community, and a small percentage in the white community.

A. Yes. I'd have to look at the record, You know, they're available, if necessary, but --

Q. Generally speaking?

A. Generally speaking, I beleive that he did not get a high vote and very little elsewhere, although he did get some but he didn't get a great deal as I recall outside of the black community.

Q. All right. In 1970, which was the next election year, I'll ask you whether or not there were any black candidates file for a place on the ballot in the Democratic Primary?

A. In 1970, no.

Q. All right. I'll ask you if you're familiar with or know anyone who was black who considered and discussed the possibility of seeking the Democratic nomination during '69 or '70?

A. Yes, there was. There was one -- a leader of organized labor by the name of Albert Mitchell, who was a member of the International Association of Machinists, had been active politically both in organized labor and in the black community.

He discussed, as I understand it, with some of the other -- some of the leaders of the black community and I

know he discussed it with me, about the possibility of him running for State Representative.

Q. In that connection, was he discussing it with you because you were a delegate to the Labor Council --

A. Yes.

Q. -- participating in the --

A. Well, even more so, he was discussing it because I was president of the Labor Council and he suspected that I might have a little influence on who the Labor Council would be supporting for office the next year, and he was looking for encouragement.

Q. All right. Did he get any engouragement from you?

A. No, no, he did not. I told him very honestly that I tought he was a very intelligent young man, had a lot of ability and a lot of possibility, could have a good career, but to run for the Legislature and do very badly would, I felt, hurt his career within organized labor or within the black community, whatever he wanted to pursue, that to run and make a very bad showing would take away some of his believability, and I thought would cause people maybe to look down on him, and this was one of the reasons.

And another reason was the very practical reason that it would have caused us some pain had a member of organized labor been running, and we refused to support him. And this is possibly what we would have had to have done.

Q. All right. In that connection, did Mr. Mitchell run?

A. No, he didn't run.

Q. All right. Do you know where he is at the present time?

A. No, I don't. Now, he did get a job as International Representative with the Union prior to the election, and that could be one of the reasons why he didn't run but he didn't run.

Q. All right. Did any other blacks approach you in 1970 relative to the prospects of running?

A. No; not in 1970.

Q. All right. Did you follow basically the same slate-making process in 1970 as you had in the prior years.

A. Yes. We sought out the people.

Q. Did you apply the same tests and standards in 1970 in terms of selection endorsement process as you had -- as you previously testified to?

A. Yes.

Q. All right. In this connection, following endorsement or support, recommendation of a candidate to your membership, is there any formula or hard and fast rule in terms of degree and amount of support that you give to a candidate?

A. No. There's no definite formula. We always approached it from a very practical view. What money we had,

we didn't divide it up equally among the candidates. We, in the terms of money and work, we always concentrated more on the candidates who had the best chance to win than we did those that we felt had lesser chance. We didn't have enough money to spend as much as we wanted to on every candidate, and we followed a priority-type.

Q. All right. I'll ask you whether or not you had a priority-type or followed a priority-type in 1968?

A. Yes; we always did.

Q. All right. I'll ask you whether or not those priorities were taken into consideration whenever there was money and energy and materials to be divided wherein Grays' compaign was to be considered?

A. Yes. That was taken into consideration and there were other candidates who we were supporting that we donated more money to.

Q. All right. And this was --

A. And more of our resources, too, than we did to Mr. Grays.

Q. All right. And why was that that you donated that?

A. Well, because we concentrated, as I said, we concentrated on the races that we felt that we had a good change of winning.

Q. All right.

A. And didn't waste any -- a whole lot of time on

races that we felt we didn't have any chance.

Q. All right. Now then, in 1972, were you still a delegate to the Central Labor Council?

A. Yes.

Q. All right.

A. I was president.

Q. All right. Actually, from 1961 up until recently you've been , I guess, president more than you've not been president, is that correct?

A. Yes, that's right.

Q. There were instances during that period of time that you were not president?

A. No.

Q. But you were back president in 1971 and '72?

A. Uh-huh.

Q. All right, I'll ask you whether or not you had occasion to discuss with any blacks the possibility of their seeking the endorsement and support of the Central Labor Council and your responsibility as a member of the Democratic Party?

A. Yes. A gentleman by the name of R. C. Johnson who is the head of the Precinct Workers Council which is a black political organization which we worked with very closely and who I've known for many years, is a Precinct Chairman, approached me, as I understand he approached other people in and out of organized labor, and said that he would like to have

organized labor, the Central Labor Council -- this gentleman was a member of the UAW, the Auto Workers, who was not a part -- who was out of the AF of L-CIO and not a part of the Central Labor Council.

Q. All right.

A. He discussed with me what I thought about him running for State Representative, and I told him for two reasons that I discouraged him. One of the reasons was that he was a personal friend and I thought that he would do badly, he would look bad, that was one of the things.

As a friend, I advised him not to run, as I would advise anybody to run regardless of their color or whatever they are, if I felt that -- and I have through the years, I have had various and sundry people, close friends and not, who have come to me and discussed the possibility of running for office, and I've always tried to be as open and as candid as I can in my own opinion and tell them what I think. Of course, I felt that that's what they wanted.

And I told Mr. Johnson at the time that I thought that he would do badly and it would make him look bad and that that was one thing, and then there just was no way, in my opinion, that a black person could be elected county-wide -- well, district-wide, what we had then.

And I didn't think that I could sell the delegates to the Labor Council to support, especially in the race that he

was -- there was others who were in the race that we thought had an excellent chance to win, and I discouraged him as much as I could.

Q. As a matter of fact, you didn't offer him your permanent support in the Council, is that correct?

A. No. In fact, I told him that I didn't think he could get labor's endorsement and that I just couldn't support him because I didn't think it was practical and I didn't want to disillusion him. I wanted him to know exactly how things looked to me.

Q. In that connection, you had already had some conversation with a white canidate for the Legislative race that he was talking about, is that correct?

A. Yes, yes, I had. And it so happened we did support that candidate and that candidate won.

Q. As a matter of fact, he was by here this morning, wasn't he?

A. He was here this morning, yes.

Q. I'll ask you whether or not that candidate voted generally along labor lines after you elected him?

A. No, he didn't.

Q. Okay.

A. I owe R. C. Johnson an apology there, anyway.

Q. All right. Now then, in 1972, in the slate-making procedure, by then there had been several organizations,

several traditionally liberal organizations develop in the community, had there not?

A. Yes. This -- in 1972 there were five organizations who got together and screened canidates together. Through the years these organizations had screened candidates and made recommendations separately, and generally we -- we had unofficial meetings generally, the leaderships of the various groups, and tried to come up with the same slate of candidates for strength.

It had never seemed to completely work out, although we were generally together there were deviations almost always that has hurt us.

And so in 1972 we decided to do something different and that is all five organizations get together and have a joint screening committee where we all had committees that would get together and talk to the candidates together. These five organizations were three labor groups, the Central Labor Council, The UAW, the Teamsters, the Precinct Workers Council which was the political organization of the black community composed and built around, I would say, not composed but built around the elected black Democratic Party Precinct Chairman in the county; then the political association of the Spanish-speaking organization known as PASO which was formed in 1960 first as "Via Kennedy ", an organization of Chicanos, Mexican-Americans, to support at that time John F. Kennedy, and after

that they stayed together and took and title of PASO.

So those five groups all had screening committees and we all met together and talked to the candidates together.

The ground rules were, when we decided to do this, was that no organization would be committed to follow the recommendations of the group but that we would make every effort we could to come out of this meeting with a unified slate of candidates; and we did.

Q. All right. Now, in that connection, this procedure that you've just described as done in 1972, is that correct?

A. Yes.

Q. All right. Was this the first time that there had been a collective meeting of these five organizations?

A. Yes.

Q. For screening purposes?

A. Yeah.

Q. All right. Now, when you made reference to UAW, you're talking about the United Auto Workers?

A. United Auto Workers, yes, sir.

Q. By 1972, the United Auto Workers had completely pulled out of the Central Labor Council, had they not?

A. Yes. They were separate nationally. They could not belong if they wanted to because they had pulled out ot the national organization.

Q. All right. And likewise the Teamsters, of course,

were --

A. Uh-huh.

Q. -- had severed their relationship several years prior thereto with each step of the organization?

A. They were asked to leave, you might say.

Q. I remember that.

A. They were kicked out, really.

Q. All right. I'll ask you whether or not you has occasion, other than with R. C. Johnson, to talk to any blacks prior to the 1972 elections as to whether or not you would support them for the Legislature?

A. No.

Q. All right. I'll ask you whether or not you ever had any conversation with either Mr. Bobby Webber or Mr. James Gaskin relative to whether or not you'd support them for the Legislature?

A. No.

Q. In connection with the screening process and this meeting that took place in 1972, I'll ask you whether or not it was before or after the filing deadline?

A. It was after.

Q. All right. In that connection, the screening -- the formal screening process of the Labor Council in each of the prior years took place after, at least within those periods?

A. Yes. In this particular year, it was immediately

after the filing deadline.

Q. All right. Prior thereto, after you had quit just having informal meetings and started the screening process, was there ever any instance where you had a screening process in advance of the filing deadline for the Democratic Primaries?

A. Yes. I believe there have been times. It was pretty close, but with the knowledge that we would have to screen other candidates.

See, there was no way generally, there was no way that you could cover all the whole screening procedure in one meeting.

Generally, we met in the evening because people had to work in the daytimes and we would meet like at two or three, four hours at night, and it would always take several meetings to get all the screening and make discussions and make decisions.

And so at first, various times, there were meetings held prior to the filing deadline, and then after the filing deadline, well, we would go ahead and finish with the last-minute candidates who may have filed at the last minute, and there usually were several.

Q. All right. Now, in connection with at or before these screening committee sessions, because of this recruitment activity, as president of the Central Labor Council, you knew that there were even in advance of the formal screening process some delegates who had already established in their mind who

they were going to support and in turn had reached some conslusions as to who they were going to recommend and at some times with not a rubber stamp but some times there were some preconceived ideas?

A. Pretty close to it. Especially in the case of an incumbent who has a good voting record it was obvious that the person was going to be supported.

Q. All right. And as a matter of fact, when R. C. Johnson approached you prior to the filing deadline about running, there had already been some conversation and some tentative commitments made, had there not?

A. Yes, there has been; the tentative kind of commitments that we always make. We always try to improve the calibre of candidates, which is -- we hope Amendment One pases today, that might improve the calibre considerably.

It's always been a big problem. And obviously, before a person would run for an office they have to know that they're going to have some support.

So we generally would give some kind of an official -- the way I always handled it personally, I would tell a person,"I'll do everything I can to see that you get the nomination --" I mean, "the recommendation of Labor. I can't promise you because it's not a dictatorship and we have a Democratic way of doing it."

But according to what the race looks like, there

would be generally -- you could pretty well tell. In many cases there would be an incumbent who was very anti-labor and one person was all that would run against him.

Q. All right. In that connection, at the time this converstaion took place between you and R. C. Johnson, this was in advance of the filing deadline, is that correct?

A. Yes, this was in advance of the deadline. And we had discussed and actually we encouraged Charles Evans to run in Place One.

Q. All right. By "we" --

A. It was an open race, and one of the things, you know, as a practical rule of thumb in politics, if you've got a good candidate you don't put them against an incumbent if you can avoid it.

Your better candidates, unless they just particularly want to run against some individual, you encourage them to run in an open place so they'll have a better chance of winning.

Q. All right. In making your recommendations, do you also take into consideration whether or not the candidate might have a little of his own money to spend instead of yours?

A. Right. We look at all possible support the candidate might have since we really don't have a whole lot of money. And it costs quite a bit to run county-wide, and we can -- we never have and cannot finance the whole campaign, anywhere close to it. And so to have a chance to win, then, obviously

a candidate is going to have to be able to raise money somewhere other than from organized labor.

Q. All right. Now then, in 1972, I'll ask you whether or not this collective group of organizations that you've mentioned and which you did, I believe, testify that you did all agree on a complete slate of Legislative candidates, whether or not they did endorse or recommend any blacks?

A. Yes, they did.

Q. All right. Now, I mentioned Mr. Bobby Webber and Mr. James Gaskin earlier.

A. Yes.

Q. Both of those persons are Negroes, is that correct?

A. Right. We did not recommend Bobby Webber -- I mean James Gaskin. James Gaskin was running against Doyle Willis who was not an incumbent but had served for many years in the Legislature as a Senator and State Representative and generally had a good voting record with organized labor.

Besides that, he was well known among our membership, and from a practical standpoint we knew that they were going to support Doyle Willis regardless of what I said or anybody else said.

And this was true, also, of the black communi and I think it was borneout that Mr. Willis did carry all or most all of the black boxes.

Q. All right. In that connection, though, both Gaskin

and Webber were black, is that correct?

A. Yes, they were.

Q. All right. Now then, are they the only other two persons that you've ever known to seek the Democratic nomination that were black?

A. Yes.

Q. All right. Again, did you have any conversation or consideration for either Gaskin or Webber as to their probability of success?

A. No, no. In fact, and I was just explaining our position on James Gaskin, who we didn't support. I knew him personally.

Bobby Webber, until the last day of the filing deadline of 1972, I had never heard of Bobby Webber. And he had just filed, and he filed at the last minute.

And when we had our screening committee meeting, the black members of the screening committee, which we had some--we had some black labor people and then we had, of course, the representatives of the Precinct Workers Council.

We discussed with them, did they have any prior knowledge of Bobby Webber running for the State Legislature, and they did not, according to what they told us.

Q. All right. But now, in the process or the procedure whereby you made your candidate selection, I'll ask you whether or not you, in making that selection, considered whether or not

Bobby Webber could or could not win?

A. Yes. We just--in fact, there was-- it was after considerable discussion that we did elect to support. And it was by less than a unanimous vote that we finally voted to support.

The only reason that we got down to that race-- like I said when we went into this joint screening we went in to try to come out united and we got down to that race. And even though there was another candidate that we were attracted to and actually some of the black leaders were attracted to, they felt, the black people felt an obligation to support the black candidate, Bobby Webber, even though they had nothing to do with encouraging him or even discussing the race with him before he got in there.

And the decision was finally made on the basis that there was some value in having a unified slate and there was a value in -- we really owed it to the black people to support a black candidate.

Q. Did you expect Bobby Webber to win?

A. No, we did not.

Q. Did anybody in the screening committee consider whether or not he could win or not in making that selection?

A. Well, I couldn't -- I don't know what other people thought, but in my--if they thought so, well, they didn't really voice it.

Q. There wasn't any argument, "We've got to support him because he's got to win," was there?

A. No, there wasn't any argument like that. The argument was over, you know, whether or not we ought to have a black candidate on the slate, and this was a hard thing for us to argue against.

Q. All right. Following the endorsement, I assume, again in connection with support, economic and physical support, whether or not Bobby Webber's race was considered in the degrees of priority along with the other candidates that you were supporting?

A. No.

Q. It was considered, was it not?

A. It was considered, they were all considered. But I would say that he received less support both physically and financially than some of the other candidates.

Q. All right. You were supporting Charles Evans.

A. Like Chris Miller and Charles Evans, who was elected, Doyle Willis.

Q. All right. Did you again make your determination of priorities and distribution of help on the basis of probabilities of winning?

A. Yes.

Q. And did you in that connection apportion a smaller amount to the Webber race than, for instance, the Chris Miller

race and the Charles Evans race?

A. Yes.

Q. In that connection both Chris Miller and Charles Evans are white, is that correct?

A. Right.

Q. And both of them won the Democratic Primary and the general election, is that correct?

A. Right. But after very -- in the case of Charles Evans, a very close race in the Primary, hard race, expensive race.
In the case of Chris Miller, too, not only in the Primary, but in the general election.

Q. I see. The Republicans did field a candidate against Chris Miller in the general election, did they not?

A. Yes; and ran a very commendable race, I'd say.

Q. Certainly caused Ms. Miller some sleepless nights, did they not?

A. Really caused her to have to really hump and work.

Q. But in that connection, there's never been a Republican elected, is that right,--

A. Right.

Q. From the Legislature, as far as you can recall?.

A. Right. And that might have been the closest contest we've ever had in the way of State Representative, to my knowledge

Q. All right. You are aware, are you not, that the Republican Party has on occasion fielded complete slates of candidates in Legislative races?

A. Yes.

Q. And since they've had primaries, have almost always had at least one or two candidates for the Legislature, is that correct?

A. Yeah, always.

Q. In connection with the support and endorsement of Bobby Webber, was there conversation in connection with the selection process, the fact that he economically had money of his own and could draw financial support other than that which you were able to give him or your group would have?

A. Well, we weren't aware at the time, like I said. We didn't know him, I had never heard of him at the time and I still don't know him very well.
I don't know where he got his financial support, but it became apparent after we got into the campaign that he did have considerable financial support from sources unknown to us.

Q. All right. In connection with each of these three gentlemen, I'll ask you whether or not you, by reason of your work and by reason of your association with the Democratic Party and with labor organizations, have had occasion to become acquainted with people in the black community?

A. Oh, yes.

Q. I'll ask you whether or not, other than these three people that have sought public office and the two that have been mentioned about wanting to run but being discouraged and not running, whether or not there were persons in the black community who, other than the fact that they were black, would have presented to you an attractive potentiality for seeking public office?

A. Definitely.

Q. Can you give us a name and a background of some of these people?

A. Well, Mr. Johnson or Mr. Mitchell either one would have been very attractive candidates. They were young, articulate, well liked, good personalities, good appearance; all the things that you generally look for.

Q. Other than those two and Charles Grays who we've mentioned and Bobby Webber and Jim Gaskin, are you acquainted with a young man named Richard Linton?

A. Yes.

Q. Is he black?

A. Yes.

Q. All right. Would you consider him other than being black having some potential?

A. Oh, yeah. I think he would have a good potential; because, like I say, all the measurements that I would go by

in saying what makes a good candidate being active, being articulate, attractive, energetic, all the different things it takes to make a good candidate, well, certainly Mr. Linton would qualify.

Q. All right. There are other people, also, in the black community who would fit that?

A. Oh, yeah, there are.

Q. Okay. At this point in time, I'll hand you a stack of cards and a Xerox copy of that slate of cards, and the Xerox copy has previously been identified as Plaintiffs' Escalante, et al's exhibit Nos. 18-A through 18-I, and ask you if you can identify those cards, please, sir?

A. Yes. These are various slates of candidates that have been passed out by various groups, part our group, organized labor, and in other groups. Precinct Workers Council, at one time there was an organization of three labor groups that were not part of the Central Labor Council, the Steelworkers, the UAW, and the Teamsters got together and had a slate of candidates, and these are various slates that through the years that have been handed out by--do you want--

Q. By handed --

A. -- do you want a description individually of what they are or--

Q. No. If you'll just let me kind of ask you some

questions about them.

A. Okay

Q. Now, those cards came out of your personal files, is that correct?

A. Yes, uh-huh.

Q. In that connection, you acquired those cards either in your capacity as Democratic Precinct Charman or as an officer in the Central Labor Council, is that correct?

A. Yes. Part of them, like I say, were cards that we had printed, the Central Labor Council had printed, and when, generally, we'd make a mailing. We have mailed as many as 30,000. One particular -- this is a brochure, but it's got the slate on it with a little bit more than just names. It goes into detail and describes who the people are.

Q. Just a second, just a second.
In that connection, you're talking about and holding in your hand what has been identified as Exhibit No. 18-F, is that correct?

A. Correct, that's correct.

Q. All right. Would you describe that to the Court, please?

A. Well, it's the brochure that has pictures and sketches, explaining the background and stands of these various candidates who the Central Labor Council is supporting, and these were mailed, usually along with a slate card, to all the

members of organized labor that we have on our mailing list. And this list has been as many as 30,000.

Q All right. In addition to making the mailing to your membership, I'll ask you whether or not you've had occasion to, through selected precincts based upon prior voting trends and knowledge of racial concentration, make door-to-door distributions of --

A Yes, sir. Which is --

Q All right. You're holding now Plaintiff's Escalante Exhibit 18-I?

A 18-I. This is what is known as a doorknob hanger. This was the run-off the year of '72.

And with the permission of the Precinct Workers Council who didn't have the money to print these, we did print them, we paid for the printing, and assited in getting them out.

And these were hung on the doors of every home in the black precincts in the county. These were the same candidates that organized labor were supporting, this was the year we had the joint screening committee.

And through the years at various times we have used a doorknob hanger to distribute slate cards.

Always we handed them out by hand. At times the only distribution, as I said, as I can recall back to the first time, at times the only distribution was through the local

unions hand to hand.

Generally, though, we would have a mailing, and then at the same time we would furnish slate cards to all the affiliated locals so that they could hand them out by hand.

There was always people who wanted to know who -- there were always union members and people outside of organized labor that wanted to know who organized labor was supporting. And we wanted to have the cards ready to give to them when they asked us.

And every local was furnished with a supply of these cards, even though their members might have got cards mailed to them, well, maybe they lose them in the mail and they would want another one.

And we would print enough cards that there would always be some go to waste, but we wanted to be sure -- they were fairly inexpensive to have them printed once you get so many printed, anyway, and we wanted to be sure -- always wanted to be sure we had plenty.

Q All right. Now, in that connection, there was, these Exhibits 18A through I, are cards or copies of cards which were actually circulated by the various organizations and you're aware of those circulations, are you not?

A Yes.

Q And they were distributed in the manner that you've described during the years 1966 through 1972?

A Yes.

Q And in addition to those, there were other instances of slate cards that you don't have copies of --

A Yes. There were other instances and there were other ways to distribute them.

There were times that cards were mailed to the black precincts in that you would secure a list, poll list, of the voters and you could identify pretty well who they were because we knew which precincts the black people lived in. And at times mailings were made to these precincts.

Q All right. Calling your attention particularly --

A And there would be sometimes even mailings made to working class precincts because, you know, precincts are identifiable as to the type of people who live there, and through our experience we can generally tell how these people usually tended to vote and we knew which area that usually tended to support the same candidates that organized labor supported, and we would try to see that they were made knowledgeable of the fact.

Q All right. Calling your attention particularly to 1969, this is not a list of slate cards in that for 1969, the year that Grays ran. Was a similar card prepared and distributed --

A Yes.

Q -- showing the Labor Council's Legislative

candidates for that year?

A Yes.

Q And was Charles Grays' name on that slate?

A Yes, it was, yes.

Q The absence of it being an Exhibit is just you don't have one of them is that right?

A Yes. I just got these -- I didn't search real diligently. I just wanted a sample of -- I thought it would be good to have a sample of the things we -- I didn't try to get any specific ones except I got the last one, I felt that the last one probably would be pertinent, the last one, and then I just gathered up a handful of them and didn't try to get together any particular ones.

MR. GLADDEN: Okay. At this time we offer Plaintiff Escalante, et al, Exhibits Nos. 18-A through I into evidence.

MR. YORK: Don, I don't think we have any objection to them except that the copy that we have doesn't identify the thing in all cases as to whose slates they are in order to identify them as to year.

MR. GLADDEN: Okay.

MR. COLLINS: In some cases it isn't on the slate card.

MR. GLADDEN: We can develop them, I think. But I'd like to --

THE WITNESS: Do you want me to answer that?

MR. GLADDEN: Wait.

MR. COLLINS: First of all, all the years are listed in the Exhibit list.

Q (By Mr. Gladden) Okay. Let's go through Exhibit 18 beginning with Exhibit No. A, and would you, if you can, tell us whose slate card Exhibit A is?

A Okay.

Q Before that, strike that.

A I've got a list here.

Q Strike that.

In connection with the preparation and distribution of slate cards, you mentioned that on some occasions that you would write a letter or enclose a brochure along with a slate card, is that correct?

A Right, uh-huh.

Q And for that reason in some instances and particularly the early years you would not identify on the slate card itself your affiliation or association, is that correct?

A Right.

Q All right.

A Specifically for the reason if -- well now, "A", of course, identifies itself.

Q Well, just --

A All right.

Q So you would not necessarily identify on the slate card itself --

A No.

Q -- which is a palm sized card that a person could take into a voting booth, but would accompany it with a letter or an explanation or your union representative would say, "These are ours", is that correct?

A Uh-huh.

Q All right. Now then, if you will, go through Exhibit No. 18, beginning with Exhibit No. "A" and explain to the Court what each of those slate cards are.

A Well, "A" is entitled "Tarrant County Precinct Workers Council."

Q All right. That's the black organization, is that right?

A That's the black organization.

Q All right.

A "B" is --

MR. YORK: Could we get the year on each one of those?

MR. GLADDEN: Yes.

Q (By Mr. Gladden) And what year, if you know?

A I'm sorry. I could only -- I can't -- my memory is not that good. But we could, if you've got a list of the candidates for the Legislature down through the years, they can

be identified.

Q Okay.

A Like Stanley, anybody remember when Stanley Woods ran for Governor? That's one way we could find out.

Q Wait a minute. Wait a minute. Off the record.

(Off record discussion.)

Q (By Mr. Gladden) Now, Exhibit 18-A reflects the Democratic Primary for 1966, is that correct?

A Yes, that would be correct.

Q All right. And that was distributed by the Precinct Workers Council?

A Yes, Precinct Workers Council.

Q In the same manner that you've described?

A Yes.

Q All right. Exhibit "B"?

A Would be the same year.

Q For what?

A That was for the Tarrant County Central Labor Council.

Q All right.

A And we put "Vote for these good Democrats" on there. This is a procedure that we didn't change even though -- there probably was no real valid reason to maintain that, but that was a hangover from the days that I described when we first got started that we tried to keep it from the

news media. We didn't want to -- at this time --

Q Excuse me, Mr. Sifford. Let me interject.

In connection with the other side's distribution of slate cards during that period of time, I'd like to ask you whether or not they would put at the top of theirs, "Vote for the right," and underline the "right" candidate?

A Yes, yes.

Q And have a similar slate card as yours? Okay,go ahead.

A Well, we, you know -- this "vote for these good Democrats," good, most people I think back in the days of, I guess, Allen Shivers' days, you might say, knew what good Democrats were.

And at that time, working people predominently voted Democrat anyway; they don't any more, not always, but at that time they did.

And so we felt that we could accomplish the same purpose by saying "good Democrats" that we would as saying "organized labor" or "Central Labor Council", but at the same time we wouldn't be tagging our candidates.

Putting something in writing or in printing is entirely different from simply a word of mouth thing, because in a political campaign anything that's been printed or written can be taken by the enemy and circulated in enemy territory to very good effect.

And so there's a good practical reason for not -- even though we thought there was a good practical reason, even though by this time we released it to the newspapers and it was, you know, it was printed in all the papers who organized labor was supporting, the State candidates as well as local candidates.

Q All right. Now then --

A So even though we still used the tradition of saying, "Vote for these good Democrats," there probably was no real good reason to do it.

Q All right. Now then --

A Finally, you see, we've finally got down here where we did put "Tarrant County Labor Council" on our cards.

Q All right. Let's identify, if we can, we've gotten down to Exhibit No. "C".

Now, turning to 18-D and I'll ask you, that was in connection with the 1966 Democratic Primary, also. Can you tell us what that slate card was, if you know?

A "D"?

Q "D" as in dog.

A Yes. That is the UAW Steelworkers Union's endorsement.

Q All right. At that time, those three labor organizations were not affiliated with the AFL-CIO?

A Right, that's correct, they were not.

Q All right. Now then, "E" is in connection with the 1970 Democratic Primary, is that correct?

A Yes.

Q All right. And would you tell us whose slate card that is?

A That is the Tarrant County Central Labor Council. We were still using "Vote for these good Democrats."

Q I see. That was in 1970 when people knew what a good Connally Democrat was, I suppose?

A Well, there were still some people who knew. They were beginning to forget, I think, but --

Q All right. Now then, "F" was in connection with the --

A But, we're like everybody else; we're a little slow to change with the times.

Q In 1970, Exhibit"F" was also in connection with the 1970 Democratic Primary, is that correct?

A Yes, yes, uh-huh. And that's the brochure that is identified and even got my name on it, hasn't it?

Q I hadn't noticed.

That is the brochure that you mailed out along with slate cards, is that correct?

A Yeah, uh-huh.

Q All right. And you mailed that out along with the slate card identified as Plaintiff's Exhibit "E", is that

correct?

A Right, uh-huh, we did.

Q All right. And in "G" which was in the 1972 Democratic Primary, --

A Yes, that was.

Q -- can you identify whose slate card that was?

A Oh, there is John Hill on there. How about that?

Q I thought you might notice that.

Would you tell us whose slate card --

A I shouldn't put that in testimony.

Q -- "G" is?

MR. YORK: Just as long as you get it on the slate card.

THE WITNESS: Well, we're in good shape there. We identified who we were, the Tarrant County Committee on Political Education, AFL-CIO, which is better known as C.O.P.E.

Q What Exhibit did you refer to by number there?

A "G".

Q All right. Now then, to "H" which was the second primary of 1972, could you tell us whose slate card that is?

A That is the Tarrant County Central Labor Council. It's identified as being the Tarrant County Committee on Political Education, which it actually

was. This is C.O.P.E., the political arm of the Labor Council.

Q All right. And "I" is also in connection with the

second primary of the -- second Democratic Primary. That's the last page, 1972?

A Yes. That was the Precinct Workers Council slate which was identical with Central Labor Council.

Q In that connection, that's the door-knocker type that you've previously --

A Doorknob.

Q Doorknob?

A Uh-huh.

MR. GLADDEN: All right. Now, we offer Plaintiff Escalante Exhibits 18A through I.

MR. YORK. Okay. We would have no objection to the admission of those exhibits into evidence.

MR. GLADDEN Okay. Also, can we stipulate that legible copies of each of these items may be furnished to the Court Reporter in substitution of the originals?

MR. YORK: Sure.

MR. GLADDEN: With the understanding that the originals will be available to the Court at the time that this case is tried?

MR. YORK: It's so stipulated.

MR. GLADDEN. And that the deposition is offered to the Court.

Q (By Mr. Gladden) Mr. Sifford, I'll ask you whether or not you, as a Democratic Party official and as a member of

organized labor and an officer in organized labor for many years, have an opinion based upon your political experience and your political activities and your awareness of Tarrant County politics, whether or not a black candidate for the Legislature can obtain or attain the Democratic nomination for State Representative?

A I don't believe so.

Q The first question, do you have an opinion?

A Yes.

Q Okay. And what is your opinion?

A I don't think they can.

Q Okay. Now then, I'll ask you whether or not you have had that same opinion over the past years that you've been talking about?

A Yes.

Q Has that affected your actions in connection with candidate recruitment in your capacity as a labor leader and a Democratic Party official?

A Yes.

Q And I'll ask you how has that affected your actions in that connection?

A It is because of the fact that besides seeking people and supporting people who we think will be the kind of people we'd like to see in office, right next to that as a requirement is the fact that they do have a chance of winning.

And to be black in a predominently white Tarrant County at this state in time and probably for many years as I see it we have problems which keep coming up and compounding the racial tensions such as busing, every time you think that a situation might get better, well, something else happens and it gets worse instead of better.

And I could compare that -- there are other reasons that would make people, certain individuals, unelectable.

I can give one good example, is names. A person that's named J. W. Sifford would have a very difficult time being elected in Tarrant County; anybody with an odd-sounding name.

And I think you can go down through the years and you can see people named Evans and Green and Gladden and Richardson, good all-American names have a great importance.

And I would discourage, you know, if a good white Protestant named Jablonski came to me, I would advise him not to run because he can't win.

Q All right. And the reason that you would advise blacks not to run is what?

A Is they don't have a chance to win.

Q Is that your opinion?

A That's my opinion.

Q Is that based on your experience?

A Based on my experience through the years.

Q All right. The experiences that you've described here today?

A Yes.

Q All right.

A And this is not in any way based on any prejudice that I have. I would like to see black people in the Legislature for two reasons, for -- one because I think they ought to be there.

I think the blacks need and ought to have representation, one reason. And another reason is the very good practical reason that most of the blacks in the Legislature are good pro-labor people.

Q Do you have an opinion, based upon the experiences that you've outlined here and your other experiences, as to whether or not the black community from a political standpoint are submerged in Tarrant County by the overriding white majority in terms of being elected to public office?

A Are sub -- I don't know as I -- I think I gather what you're getting at and -- but I don't know if I'm clear on what you mean by "submerged."

Q All right. Let me ask you: do you have an opinion as to whether or not, or based on your experience, does the white majority dominate the political process in Tarrant County --

A Yes.

Q -- from the standpoint of selection and election of people?

A Oh, yes, definitely.

Q Okay. Do you have an opinion as to whether or not the black community as such as been denied effective participation in the political processes?

A Insofar as electing blacks, they have, they have been.

Now, there is no hesitation any more of white candidates seeking black support, whereas, at one time there was. There at one time, I would say in my political experience, a candidate in Tarrant County for the Legislature or for anything else, for that matter, would not want it be known that the black community was supporting him, but that's not true any more. They are -- the white candidates are very happy to have the black support.

But in turn, they are not willing to support a black.

Q All right. Insofar as a black person casting a ballot in the Democratic Party, if he wants to cast an effective ballot he'll vote for a white candidate, will he not?

A Right; if he's practical.

And I would say, in my experience, the black people as a group compared to other groups such as labor and Chicanos and other identifiable groups, are probably more

sophisticated and are more knowledgeable, they know who their friends are and who their enemies are.

So they have a tendency to vote along a practical line and they have at various times voted for a white candidate over a black candidate because of practical reasons.

Q This was so in 1972, was it not, in the Gaskin race?

A Gaskin-Willis race.

Q All right.

A I think Mr. Willis carried all or most precincts, black precincts.

(Off record discussion.)

Q In that connection, I'll ask you whether or not you're familiar with -- not in that connection but I'll ask you whether or not you're familiar with the availability or the offering of anybody with a Spanish surname for the Legislature in Tarrant County?

A Yes.

Q All right. And I'll ask you whether or not there have been two persons that have offered themselves in prior years who did have a Spanish surname?

A Yes. One was Robert Ramirez who we did support with the knowledge this was another circumstance where that the was running against a proven enemy, and we supported him to help turn out the Chicano vote and with full knowledge that we

didn't have a chance to win.

And the other one, I believe, was Harold Valderas, who ran against George Richardson who we had always supported, has always been a good friend of organized labor, and we supported Mr. Richardson and I believe most of the Chicano people did, too.

Q Other than those two, are you familiar with any other person that has ever run with Spanish surname or had Mexican-American ancestry that offered themselves for the Legislature?

A No, that actually run, no.

MR. GLADDEN: I'll pass the witness.

EXAMINATION

BY MR. COLLINS:

Q Just very briefly, I need to ask just a few very brief questions.

Mr. Sifford, since 1967, have you ever lived outside of Tarrant County?

A No. Not my -- my residence has been in Hurst for the last 20 years.

Q All right. In that connection, Hurst, Texas, is in Tarrant County, Texas?

A Yes.

Q And your residence in Hurst, Texas, is within the confines of Precinct District 32 for the Texas House of

Representatives, isn't it?

A Yes, it is.

Q Okay. And all of your testimony with reference to your political activity that you've given in this deposition so far is with reference to your activity within Tarrant County, Texas, is it not?

A Yes.

Q And what does the term "Seventh Street" refer to in Tarrant County?

A Seventh Street would refer to the -- what is generally known as the business establishment. There are -- Seventh Street is the street that's downtown where most of the big executive offices are maintained and where the Fort Worth Club is, which is kind of the seat of the big money executives of the town, and over the years we've kind of developed the phrase "Seventh Street" meaning the so-called quote unquote business establishment.

MR. COLLINS: Thank you. And do I understand that the Attorney General does stipulate that Plaintiff's Escalante's Exhibit 18A through I are admissible on the main trial of this cause?

MR. YORK: Are you and Mr. Gladden going to offer them separately, is that --

MR. COLLINS; Well, 18A first, I guess.

MR. YORK: No. We've stipulated with Mr. Gladden

that they're admissible in evidence under his offer, and I wonder if you've got some different offer?

MR. COLLINS: No. I just wanted the record to clearly reflect and I didn't know if it did that we do have that agreement.

MR. YORK: Yes. We do agree to that.

MR. COLLINS: Okay. Pass the witness.

MR. YORK: Let me say one thing at that juncture not for any purpose other than we don't want to be taken down the line as agreement that both counsel from the same office interrogate the same witness.

MR. GLADDEN: I just didn't touch base with him.

MR. YORK: No problem. Just didn't want to establish that as a precedent for anything down the line.

MR. COLLINS: I was just trying to fill the holes.

MR. GEORGE: I have a couple of brief questions.

EXAMINATION

BY MR. GEORGE:

Q I'm Jim George and I represent the Republican Party interest in this lawsuit, Mr. Sifford.

Let me ask you two or three quick questions. First of all, in the slating process, was it your testimony that the Seventh Street group that you've referred to has a slating process?

A Yes.

Q To your knowledge in your involvement in politics.

And that slating process takes place in the Democratic Primary?

A Yes.

Q To your knowledge, has a black or a Spanish surname ever been slated on their slate?

A No.

Q Never been slated?

A No, never.

Q What is the percentage of, give me your estimate of the percentage of candidates from either the Seventh --

A Now, I would back up to that. Maybe Bobby Webber did have some business support, but the predominently so-called Seventh Street gang that we know who are generally the influential people in Tarrant County politics did not support Mr. Webber.

Q Thank you. To your knowledge have they ever slated personally the Spanish surname or a Mexican-American?

A No.

Q Have not. What is your estimate based upon your knowledge of Tarrant County Democratic politics of the chances of a person winning the election without being a part of either the slate you have described or Seventh Street group slate?

A I would say that it's not good, even though it's not impossible.

Q Has it happened?

A Yes, I think it has happened.

Q But out of six or seven races, every two years --

A It wouldn't -- it hasn't happened very often, not very often.

Q Maybe one time?

A I guess you could -- well, you know, a candidate without -- very few candidates arrive on the scene that have the financial resources to start with or the, in lieu of the financial resources, physical resources that maybe we could provide, that it takes to run.

Q Okay. Thank you. Have any blakcs been nominated by the Republican Party for Legislative seats in Tarrant County?

A Yes.

Q Do you --

A Not in any contested races, but --

Q Well, they were nominated and ran against the Democratic --

A They were nominated because they were the only candidate in the primary, whether that means anything or not.

Q The Republican Primary?

A Right.

Q And they were nominated and ran against a Democratic candidate?

A Yes.

Q Were they ever elected?

A No.

Q All right.

A Generally they didn't even carry the black precincts.

Q So based upon your knowledge of Tarrant County politics, would you say that the Democratic Primary is the predominent election or political institution in Tarrant County?

A Yes, definitely.

Q So that election nomination in the Democratic Primary is tantamount to election?

A Yes. I suppose somebody from the Republican Party would be better qualified to testify to this than I, but it's common knowledge that they have very considerable difficulty in finding candidates to run in their Primary.

Q Okay. Thank you.

Can you tell me some estimate of the financial or the cost, typical, if you can say, race for the Democratic nomination in a contested race in Tarrant County?

A Yes. I would say that it would take twenty - at least $20,000.00.

Q That's a minimum?

A I'd say minimum. There's been much more than that

spent.

Q In connection with --

A In various races.

Q -- in connection with the cost of election, are the two primary sources of funds either organized labor or what we would refer to as the Seventh Street group?

A Well, business. Business or, you know, various groups who are special interest groups.

Q So as a minimum, it takes $20,000.00 to run?

A Yes.

Q And that's funds which do come --

A Which is a sum far above what we can come up with, I might add.

Q All right. That sum comes, that money, wherever it comes from or however much comes, either generally comes from either a candidate's own private sources or from one of these slating groups, is that your testimony?

A I would say generally it comes from some special interest groups is my belief.

MR. GEORGE: That's all the questions, I have.

THE WITNESS: There might be individuals that donate money simply because they're interested in government, but they're few and far between, unfortunately.

Q Excuse me. Or a candidate could have his own private --

A Could have his own funds.

Q But he would have to be relatively wealthy?

A He would have to be very muchly wealthy and willing to sacrifice a good deal, and I don't know that that has happened.

Q To your knowledge, it's never happened?

A It's never happened to my knowledge.

MR. GEORGE: Thank you. That's all I have.

EXAMINATION

BY MR. BONNER:

Q I have a few questions, also, Mr. Sifford.

I'm Norman Bonner and I represent a group of parties who are also residents of Tarrant County.

I'd like to take you back for a second to 1956 when you were a member of the Political Action Committee of the --

A CIO.

Q -- CIO.

Back in those very dark days when you sent out your cards without your name on them, I'd like to ask you this: "In forming your slating committee or inaugurating your slating activities, what constituencies were you trying to appeal to in '56?

A Generally, working people, liberals, minorities, union members.

Q So there was sort of a coalition, if you will, or

unofficial coalition?

A Well, the knowledge that there were groups of people who had the same interests and generally could be counted on to devote for a certain type of candidate. Generally, the so-called liberal Democratic type candidate.

Q And you were in communication with people from these various and sundry other groups that generally voted along the same lines?

A Yes.

Q And over the years the same coalition will more or less coalesce to the point that in '72, five elements of that coalition formed a mutual selection committee or screening committee, --

A Right.

Q -- is that correct?

A Right.

Q But by and large you've had the same coalition over the years, that is, labor, blacks, browns and white liberals, is that correct?

A Uh-huh.

Q And these were the people whom you primarily relied upon to vote for your candidates, is that correct?

A Right, right. That's definitely the -- we might look to other special interest groups for financing, but as far as votes, you know per se these were where we got

votes.

Q Okay. You said you don't feel that a black candidate even now could win, is that correct?

A No, no.

Q You are, of course, aware that Mr. Webber made it to the run-off --

A Yes.

Q -- in 1972?

A Yes.

Q Well, how would you assess his showing in that runoff?

A Well, I think it was a -- as I said once before, names have a great deal to do with it.

One of the candidates, of course, was indicted, or I believe, convicted maybe at the time. I don't remember whether he was maybe indicted or convicted, and, therefore, very vulnerable. He would have been, had Mr. Webber have been the only candidate against Mr. Shannon, possibly he would have beaten him because, you know, people would have voted for even a black, I think, probably.

I'm not expressing my feelings, but I would think that a lot of people would put it in those terms and use maybe in a more vulgar phrase which you and I are familiar with in stating their opinion.

And then, of course, the two top vote-getters who

were Mr. Webber and Mr. Schieffer, as I said, the name, even though Tom Schieffer was and still is a young, attractive candidate, the name is not good.

And the name Webber is a good name politically. And I'm sure that there was a lot of people that weren't aware that Bobby Webber was black.

As I recall, he ran a race that was certainly not the usual liberal-type race, and he did -- I don't know how much money he spent, but I know he spent considerable because he had a great deal of both newspaper and especially radio. I think this is quite cognizant that he stayed off of TV. You know, there was no black face on TV, but you heard Bobby Webber, the name, considerably, on the radio.

There was quite a good deal of expenditure. And I think he probably reached the zenith that any black candidate, if there ever was a chance for a black candidate to succeed, that would have been it. Because he probably spent twice as much money as his opponent did even though his opponent did have considerable resources at his command in that he did have the support of money people.

Q Let me ask you this, Mr. Sifford: during your years with the, well, your years of activity in Tarrant County politics, have you ever seen it happen that a man might or a candidate might lose in the, say, run-off or one election year and then come back the next year and win an election?

A Yes. In fact, this has happened many times.

Q In other words, the public's familiarity with the candidate's name may also be an important factor as a man that's made a good showing as opposed to the bad showing, if a man has made a good showing, that is an asset in his running the second time around?

A Yes. His name has had exposure, he's had a campaign under his belt and he has a lot of experience to start out with and certainly --

Q You know, despite the fact that Mr. Webber ran a fairly good race the last time and made it into the run-off and had a lot of media activity, you still don't think he could be elected in 1974?

A No. I think with the set of circumstances that he wouldn't do as well. I just don't see how he could possibly do as well next time as he did this time.

I think this was an unusual sort of thing and, like I said, had he had -- had he been fortunate enough to be the only candidate against the indicted incumbent, I'm sure he would have pulled it off.

Q Tell me what element of your coalition breaks down when a black candidate is on the slate? You've got labor and minorities which in Tarrant County means primarily at least the black community, and you've got liberals.

Is it fair to say that -- I'm asking two questions,

I guess, really. Is it fair to say that when there's a black candidate that there's some defections from the coalition?

A Oh, yeah. I think there's a considerable defection from --

Q Where does that defection take place?

A From the blue collar worker, the laborer. The union worker and the non-union worker, you know.

There are more non-union workers than there are union workers, and these low paid blue collar, poor white workers, always tend to vote with -- for the same type of candidate or maybe, you know, they are -- actually we have pretty good evidence that they have always tried to find out who labor is supporting and even though they don't belong to a union they identify with organized labor being workers and they have a desire to vote for the people that labor are supporting, they have in the past.

But when it comes to -- because of the issue of busing and the whole integration bit that we've had with the -- that caused the emergence of the George Wallace factor, we have found that a good deal of the workers in the both union and non-union will not vote for a black person.

Q In other words, their attitudes vis-a-vis a black candidate are so hardened by whatever their response to the temper of the times or whatever, that no matter whatever his position on the issues are --

A Definitely, definitely. The first time maybe in history, the first time in modern history I know that a presidential election was decided on issue other than economics. With the election of Nixon over George McGovern the election was decided on sentiment instead of practicality.

Generally, you can count on the working people to vote their pocketbook. This was the first time in my knowledge in modern history, at least, that the people didn't vote their pocketbooks, but they didn't and this is true in all races, not just the presidency.

Q All right. Just one or two quick questions on support that one slate-making group or the other which for convenience, I guess, would be divided into labor or business gives to its candidates.

Now, the C.O.P.E., what typically, whatform of support did your group give the candidates? You gave them money and what else?

A We gave them money, we gave them manpower.

Q To do what?

A To nail up signs, placards, to hand out handbills, we would assist in buying printing for them, get their brochures and other things that they have to have for a political office, get them printed; we would assist not only in mailing mailings to our own people; we would assist them in mailing mailings to other voters.

Q In other words, this was sort of doing a lot of leg work that's necessary for the campaign?

A Right. The nitty-gritty, the down to earth hard work that's necessary to win a political race. We've always had people to do these things.

Q You said in '68 Mr. Grays who was the first black that you recall or anyone else recalls running for the Democratic Primary, got less money than some of the other candidates on your slate, is that right?

A Right.

Q Would it be fair to say that he got less money than any other candidate on the slate?

A No, I wouldn't say that. But, he -- I knew there were others that --

Q Okay.

A What I'm trying to say, I guess, it wasn't decided so muchly on a negative basis as on a positive basis.

We accentuated the positive. We picked out the candidates, since we don't have -- you know, I went into what it cost to run which I think is common knowledge, and obviously we don't have the money enough to give everybody.

And when we had a candidate who had a tough race but still had a good chance to win and then obviously needed every penny we could rake and scrape together to put them over, we would concentrate on those candidates.

Q Right.

A This Mr. Grays knew this and was aware of it and he understood it.

Q Okay. Based on your experience and observations over the last, oh, I guess 16 years or so, has the black community generally supported the candidates picked by or endorsed by your group?

A Yes.

Q Almost without exception?

A Oh, yeah.

MR. BONNER: I see. Okay. That's all I have.

EXAMINATION

BY MR. YORK:

Q Mr. Sifford, you mentioned a $20,000.00 figure as more or less a minimum kind of figure to run a race for the State Legislature in Tarrant County.

I'd like to ask you if you know in more or less today's terms how that money would typically be broken down in terms of how it would be used in a typical race? Would that typically be half on newspaper ads or half on TV or handbills or how would that typically be broken down?

A Well, it could be broken down any way.

It would be tailored to suit the need or the supposed needs of the candidates. You know maybe it's just a case of the personality of a candidate. Some candidates migh

spend it all on TV or they might spend it all, nearly all, on radio.

A certain amount of it is an expense just to get cards printed up, brochures printed up. You know, everywhere you go you've got to leave something, and this is a considerable expense.

Mailings is one of the big things. And this is why it's been so tough for us over the years in that since I have got started -- back when I first got active you could mail for a reasonable amount the entire voters of the county, was within reach of ordinary individuals. And we have elected candidates just on one good mailing to every voter in the county.

But the cost of mailing has gone up so that it's pretty well prohibitive. Gosh, you could use nearly the whole $20,000.00 for one county-wide mailing, the cost today, especially if you had to do it, you know, if you had to hire it all done.

If you can get volunteer help to stuff the envelopes and you know -- but it's getting harder and harder to get volunteers and especially when you've got the number of voters that faces us that you have to mail, to mail every voter in the county. The logistics of addressing by hand that many envelopes is staggering, so it's harder and harder to get volunteers and most people are not able.

You know, you could spent the whole $20,000.00. That's the reason why I say, many times much more than that is spent. And not in a wasted manner, although there are -- you know, there are times that I think, in my opinion, certain candidates have wasted money.

Q But you couldn't give the Court any estimation,then, of even a kind of rule of thumb as to how money would be broken down in these races, typical races?

A Like I say, they would vary. Mailings would be one of the big items that some people might not use; most probably would.

TV, radio, newspaper, these are three big items, very expensive and require not only a big investment but they require cash on the barrelhead, you know.

We have people who are still paying off debts after many years of, you know, running for office.

But there are things like radio and TV and newspaper, the different kind of expenditures that you've got to have cash for.

And printing anymore, there was a time when you could get printings done on credit but most printers now won't do printing for politicians on credit because they're afraid they'll never get their money.

So, you know, you could generally say things like radio, TV and some-- I couldn't say that it would always be

the same things, but these would be the big items in anybody's campaign.

Q All right. In any event, whether you had single member districts or whether you had multi-member districts, as a practical matter it would be difficult to conceive of a candidate winning who did not make significant use of TV, radio --

A Oh, not at all. In single member districts it would be very easy for a candidate to knock on every door. If they're energetic enough, they could knock on every door and there's nothing more effective than person to person communication still.

There's no more effective way of, you know, of soliciting a vote than to walk up to an individual and say, "I'm J. W. Sifford. Would you vote for me?" Everybody that you do like that is going to vote for you.

But with the number of voters that we have county-wide, it's absolutely impossible.

And you could do that in a single member district, you could run -- I'm sure that there would be, you know, most people would have some expenditures in a single member district, but it's conceivable that a person could run and win with absolutely no expenditures.

Q I understand that is a conceivable possibility. But in terms of practical politics, one would not think that

any candidate would likely run without making the use of TV, radio and the major daily newspapers, just in terms of practicalities?

A Well, like I said, I can recall when, you know, the candidates that we supported in the past when we were successful, they would get elected just on a county wide mailing to all the voters.

We can't do that anymore. That's prohibitive. We have never been able to afford such a thing or the candidates we support have never been able to afford such a thing.

And single member districts with what we're talking about seven thousand something?

Q Seventy five thousand.

A Seventy five thousand?

Q People.

A People. And then when you get the registered voters within that, it's going to come down considerable. And a mailing would be within the reach of just about anybody.

And, like I say, a lot of times this is all that's needed to get you elected.

No. I think that it's very practical to win a race without any radio, TV, newspapers. In fact, it would be a considerable amount of waste.

Maybe I'm just a prudent type person. My wife has accused me of being stingy sometimes. I'd feel bad about

wasting money on newspaper that went all over the county when, you know, I've got that kind of a district, and I could distribute it. You know, there's many ways. You can hire kids to go door to door --

Q Let me ask it in terms of --

A -- pretty reasonable.

Q In terms of what your organization if you were to back a candidate in what you consider a serious race where the candidate had a good chance to win, would you recommend that your resources be allocated in such a way that you not make use of TV, not make use of radio and not make use of the major daily newspapers in a single member district situation?

A Yes. In fact, I don't know when we have allotted any of our money -- of course, there have been occasions when we have just turned the money over to candidates and let them do their own thing, but generally we don't have a lot of money and we have an interest in the candidate winning, and if they'll listen to us at all the type of money we have will go only so far and it just don't go very far on radio and TV, you know, it's not effective on radio and TV and the newspapers unless you saturate it.

So generally -- in fact, I can't recall when we have spent any money, any organized labor, C.O.P.E. money, on such things.

Generally, we use it for distributing material,

printing material, distributing material, things that we know where you are directly contacting the individual voter and we feel is more productive.

Now, you know, if you can afford $50,000.00 to run for State Representative in Tarrant County, well, certainly we would be happy to see that candidate purchasing radio and TV time.

Q What kind of money has your organization in recent years been able to contribute, say, what would be a maximum amount in any one race?

A House race?

Q Right.

A About a maximum -- and this is exceptional -- we have maybe two or three thousand dollars. Generally I would say we would maybe come in with two hundred and fifty to five hundred is all that we would have to put on a House race.

Q All right, I take it that the choice by your group of individuals for the slate has never ever had any racial motivation in the sense that the choice of a white over a black was never made because you wanted to exclude blacks from the political process but was rather made based on your judgment of whether or not blacks could win the race?

A Generally this is true, but I wouldn't say that our leadership is completely without prejudice. I think there are some in there who are, you--can be qualified

as labor leaders who are prejudiced and would not for personal reasons want to support a black.

Q Can you cite any instances since you've been in the positions that you've held since 1956 where a black was excluded from your slate purely because he was a black as opposed to because of your estimation of his chances of winning?

A No, no.

Q All right. And your council has been made up in part most of the time of blacks, has it not?

A We have some black delegates. And, of course, we've got black members. But predominently it is a white, male, forty and over organization.

Q All right. What is the size of the council that you're talking about, your delegates in the council presently?

A I believe -- and it varies -- right now there's probably 200 delegates representing a membership of at this time somewhere like 17,000.

Q Now, of that 200 roughly what proportion now are black?

A I'd say maybe five percent. That might be -- that would probably be a liberal estimate.

Q And of the 17,000, what percent would be black?

A You know, I've never seen a breakdown of that, and that would be an interesting study, I suppose, but probably not more than five percent.

Q All right. And what is the size -- if I've got the terminology right -- of the council that actually does the screening?

A This is the delegates. The council is composed of delegates from the various local unions. And this is based upon the number of members that each local has. They have a prorated number of delegates that they send to the council.

Q Well, isn't the screening group, though, somehow a sub-group of that --

A Yes. The screening group, it's generally based upon a cross-section of the council.

Q So that the black representation in that screening group would be about the same as black representation in the number of delegates?

A Uh-huh. Probably we've never had more than one or two black people on the screening committee.

Q And what size would the screening committee normally be?

A Maybe a dozen people, dozen to fifteen.

Q All right. I'm sure this evidence will come out from other sources. But do you know, generally, what the percentage of black population of Tarrant County is? At this time?

A I believe it's something like 12 or 13 percent.

Q All right. And what about the Chicano, brown

population?

A Seems like they are something like three or four percent.

Q All right. You made the statement awhile ago that you weren't aware of any candidates who had succeeded who were not either on the slate of the so-called business group or the Seventh Street group or the labor group.

Would you think it fair to say that generally in elections, whether you're talking about single member districts or multi-member districts in this State and other States and throughout the country, that by and large candidates don't get elected unless they have identifiable business support or unless they have identifiable labor support?

A Generally, that's generally true.

Q All right. And did you testify that you're not specifically aware of the mechanics of how the so-called business slate is put together?

A No.

Q In other words, you don't know that they have a screening committee or couldn't give us any information about --

A No. Well, of course, I -- no, I really don't have any knowledge. I'm pretty sure they don't have a screening committee. I can't really testify that they don't but I'm pretty sure they don't.

Q I'm not certain, but I don't recall whether or not

any of these slate cards that you have showed us purport to be slate cards from the so-called business groups?

A No, no. None of them. And I -- it's not -- at least, it's not the usual thing to have a slate card from a business group.

I believe I did testify earlier in the testimony that you can pretty well identify by certain precincts that are silk stocking, quote, type precincts.

They're people that they are supporting that carry predominently -- and I've never really figured out how they do it. You know, I'd like to duplicate it if it's -- you know, maybe they've got a secret that we don't know about that we can use.

I don't know how they do it, but some way the word gets out who the right person is to vote for and they generally vote for him.

Q The fact that the relatively wealthy precincts tend to vote for candidates which are supported by the business leaders of the community is not a particularly surprising fact in itself?

A No. And, you know, I guess if there is a reverse thing there because they would naturally vote against a labor supported candidate and they could easily know who the labor candidate was and they would vote against the labor candidate.

But still that doesn't explain why, you know, in

many races there are like three or four candidates, but the one who is, you know, the fair-haired boy of the business community always carries in these type precincts.

Q I mean that can well be --

A So it's just the negative vote. There's obviously a knowledge there of who the designated, annointed candidate is.

Q That could well come from just the natural Democratic process of a business leader, say, endorsing a particular candidate and the people in a particularly wealthy area in effect buying that endorsement?

A Well, it could come -- I've thought it could be attributed to the fact that businessmen tend to see -- maybe see one another more than labor people and liberals and minorities and this sort of people do in that they have clubs and they have luncheons and country clubs and they see each other quite often. Maybe this is the way they get the word around.

Q But in your efforts to prepare documents for this case and so on, you've not been able to come up with anything as formal as any kind of printed slate card that you would say have been prepared by the so-called business community or the Seventh Street bunch or anything like that?

A No.

Q Okay.

A The nearest thing I can come to that is that there have been newspaper reporters present stories setting out the slate of the business people.

Q All right.

A With no -- not attribute it to anyone within the business but simply a knowledgeable reporter, newspaper reporter, knowing who the slate is and they would print a story on it.

Q All right. That kind of thing, of course, could happen just as easily on the labor side even if you didn't have a formal slating arrangement, it wouldn't be that hard to figure out who the candidates were that labor was behind, --

A That's right.

Q -- right?

A That's right.

Q Okay. What about the degree to which the elected white representatives have been responsive to the needs of the black and brown community in this county?

Let's take the present delegation, and not talking about being responsive particularly to labor's needs or to business' needs or the beer lobby's needs, or, you know, various groups like that, but talking about in terms of responsiveness to the need of the black community, for instance, in terms of votes in Austin.

A Uh-huh.

Q What can you say about the responsiveness or lack of it in your present delegation to the needs of the black community in this county?

A It's not good.

Q Specifically, what do you mean by that?

A I would say that on most issues that are desirous of the black community, they vote against it.

Q What would some of those issues be, say, in the last Legislative Session?

A Well, I think even though there is some divided opinion on busing, there was resolutions on busing opposing busing that the majority of the representatives voted for, even though the State Legislature had nothing to do with busing.

We wouldn't have to be here today had the delegation been responsive to the needs, I think -- there is no division at all among the black community on the need for single member State Representative Districts had the present delegation been responsive to those wishes. You could have been in Austn and I could have been asleep and we all wouldn't have to be --

Q I'd rather have been asleep than in Austin.

A Not a whole lot of difference, I guess.

Q What other issues can you think of where the delegation has not been responsive to what you would view as

the needs of the black community?

A Well, most economic issues such as nursing homes, their delegation has not supported the State getting into nursing homes.

Consumer laws which, that is to thanks the Attorney General, we have got a good consumer law.

Q Do you know how the type of delegation voted on that in the final analysis?

A Most of them voted against it.

Q Do you know who voted for it?

A Yes. Doyle Willis, Chris Miller, maybe one or two others, maybe I don't -- I'm not sure exactly, but most of them voted against it.

Q If one or two did, that would be almost like half the delegation voted for it, would that be right?

A Well, I don't -- I wouldn't want to say because I can't, you know, I can't be that factual on it, but as I recall they did vote against it.

Q What other issues can you think of?

A Well, interest. I think black people are generally poor people, and at least medium income, and high interest rates are very bad for black people and they oppose it.

They introduced a bill which would have made -- had high interest rates in it even though it was purported to be a regulatory bill, it was probably a good bill except for

the fact that it had really high, too high, interest rates in it that was even so bad that a number of the more pro-business people voted against it. This is an example of the response and --

Q How did the rest of the delegation stand on Representative Finney's bill?

A I don't recall. I don't recall. But, you know, this is an example of a candidate like Mr. Finney who runs at large, had no fear of reprisal for introducing such a bill; whereas, if -- I'm sure not the type of district -- knowing where he lives, the type of district he would be in which would be almost exclusive working class district, he wouldn't dare introduce such a bill if he had to run in a district just of his general neighborhood of where he lives.

Q But in a single member situation, someone else might well be able to introduce a bill that was, say, ten times worse in your view and come home and not be afraid if he was in a conservative enough district?

A No. I don't think anybody could introduce one with any -- knowing that bill, I don't believe I could -- but I do, I would agree that certainly there would be districts where there would be people that could introduce such legislation.

Q The point I'm making in that respect is: that even in a single district situation you wouldn't expect the entire delegation to be [illegible]

community; you'd expect certainly there to be human responsibilities to the needs of everybody, but you would expect some members depending on where they were elected from to be more responsive to the need of the black community than others?

A Certainly.

Q And it wouldn't be reasonable when you're talking about responsiveness in terms of a whole multi-member delegation, it really wouldn't be expected for everyone to be responsive to the black community?

A Right. But in following the last session of the Legislature, I think anybody that had any awareness of it at all knows the effect that single member districts in Bexar and Harris and Dallas had on the last session of the Legislature in that there was a so-called black caucus that did make their feelings known, and if it had not been for single member districts in those counties they would not have had that.

And so there were advocates of black people who did make an impact, and certainly black representatives from this county would add to that impact.

Q Am I correct in thinking that since 1956 there's only been one year where the five organizations that you've talked about or five groups have ever gotten together on kind of a joint screening process?

A Well, this is the only time we've ever gotten together formally in the screening process.

There is other times that we have on some occasions we have screen candidates separately and then gotten together and tried to -- but one of the problems we found there is that some political candidates tend to tell the groups and the individuals they're talking to what they want to hear, and we felt that if we all got together they'd have to all tell us the same thing and we found out they hadn't been doing so.

And so that's the reason we decided, you know, we found it very difficult because it seemed as though when we tried to get together after we had individually talked to the candidates they didn't seem like the same people.

Q What about, for instance in 1968 when Mr. Grays ran, how did your slate -- the labor slate fare generally that year? What were you looking at, seven or how many places were you looking at then, seven or nine?

A To really be factual, I'd have to see - I just can't pick out of the air who all was, you know -- I've seen so many slates and so many years. If I could see who the people were that were running, I could tell you very easily, but I don't think I can come out of the air exactly who all was running then.

Q In the years where the --

A I don't remember. Generally, I don't know.

Q All right. In the years where the five or so organizations that you've mentioned, and the five or so groups

have not gotten together to have a joint kind of screening, has it been a situation where it just kind of depended on what year you were in as to whether the labor guy won or whether the business guy won or whether the -- some other group might win?

I take it labor did not always win and the business did not always win?

A Well, I would think it would be fair to say that generally we lost more than we won, you know.

Q So it wasn't a matter of the labor group being able always to get together in a slate kind of thing and being able to pick the guy or girl that was going to win, nor was it that way for business?

A Well, I don't know, like I say, I don't know how -- I can't answer for business, but there are -- you know, there are a lot of factors.

Our people don't turn out, you know. This is always -- we do everything we can to get them to go vote. Like we'd like to think they were out voting today, but I suspect that they're not going to.

There are things of interest in the election today to us, and I don't -- and in most elections the more well-to-do people, I think, studies will show you always turn out; and more so than the working people.

Q Do you know from your own history here in Tarrant County whether the percentage of black population has increased

over the last, say, twenty years that you've been closely observing politics?

A Yeah, I believe it has increased; I think it's increased.

Q On what order of magnitude would the increase be?

A Oh, I wouldn't say by any great magnitude. I guess the thing that probably has made more of an impact is that over the years they have became better organized and probably more politically aware over the years.

Q For intance, on that point, to your knowledge do you know when the Precinct Workers -- what's that group called?

A Council.

Q Precinct Workers Council, when that was formed and when it became a viable --

A I think -- no, I can't pinpoint it, but I think, and I'm sure this could be better testified to by someone other than me, but I believe it was sometime in the late 50's.

Q And to your knowledge has that resulted in generally a greater registration of black voters as a percentage of the black population?

A I think -- well, they have -- I think the black voters have registered in greater numbers over the years. That's probably one of the factors.

Of course, there are many other factors. You know, there have been all kind of groups and this is one of the

efforts that we always put a lot into is registering minority people, we spend time and money and effort in encouraging minorities to register just as well as we do our own people.

You know, in fact, of late years we've got a lot more confidence in the minorities voting the way that we would prefer to see people vote than generally our own people do.

Q Do you as a labor group sometimes re-slate or re-endorse after the first primary, would you be likely to endorse somebody that you have not previously endorsed?

A Might -- we possibly would, yes. We have on occasion. Maybe, you know, there have been occasions when the person we endorsed in the first primary didn't get in the runoff, and then we would make an endorsement from the two remaining candidates.

Q What is the situation in elective offices generally in Tarrant County, that is, non-House members as far as the County Courthouse is concerned, do blacks hold any offices over there that are elective offices?

A No.

Q Any District Judges that are black?

A No.

Q Well, you know the list as well as I.

Are there any that you're aware of that are black?

A There's never been any run that I'm aware of for any County office.

Q All right. And what about browns?

A Yeah. There have been on occasion. Pete Perez ran for Judge -- District Judge in the last Primary.

Q How about any jobs -- pardon me. Go ahead.

A And I think there was one ran for Justice of the Peace or something.

Q Now, Justice of the Peace is not a County-wide election, is it?

A No. In this case it was Justice of the Peace, Precinct One, which is all of the City of Fort Worth, so it is a good portion of the --

Q Are you aware of any blacks or browns who have run in any -- for any elective office within Tarrant County for any of these jobs without naming all of them but for any of these jobs where the election is from an identifiable part or precinct of the county as opposed to the entire county such as Constable or Justice of the Peace or any such job as that?

A I don't believe any has ever ran.

Q Anyone from --

A Well, other than that one case I said there was a Chicano ran for Justice of the Peace in Precinct One. Other than that, I can't think of any.

Q Even from precincts which might be generally identifiable as black or brown precincts?

A Well, I don't think you could identify any, you

know -- the county, you know, the way that the people live in the county, I don't think we've got any, you know, that -- even Justice of the Peace precincts that would be anywhere close to being predominant minority or black or, you know, or even putting blacks and Chicanos both in there, I don't think you would come anywhere close to having a majority in any of them.

Q You don't have enough blacks or Chicanos generally in the county for that to be true, is that right?

A Well, that and the particular way that they live, you know, the pattern of residence.

Q What would be your estimate under any single member plan that you can think of, of the number of blacks who might be able to get into the Tarrant County delegation?

A I think that definitely there would be one, and a good possibility of two, and an outside possibility of three, you know, or maybe two blacks and a Chicano.

Q Out of a county that has nine seats?

A Yeah.

Q And a total black population of what, ten or fifteen percent, I believe you said, or thirteen?

A Twelve to fifteen.

Q All right. And a brown population of two, three or four percent?

A Yeah.

Q You think it would be possible to elect as many as

three of the nine representatives --

A That would be very optimistic, you know, but there's a possibility. Definitely one, possibly two, and an outside possibility of tbree.

Q Mr. Sifford, you've been very informative to us and I appreciate your time and patience with all of us. Thank you.

A Glad to do it.

MR. YORK: That's all.

MR. GLADDEN: I have one or two questions by Mr. Sifford.

RE-EXAMINATION

BY MR. GLADDEN:

Q In connection with the increased cost, back in 1956 at the time that you first became involved in Legislative races we had a poll tax, is that correct?

A Right.

Q And there was limited registration at that time?

A Yes, very muchly.

Q All right. Following the Supreme Court ruling on repeal of the poll tax, there has been an effort to sort of universally register every qualified voter in the county, is that correct?

A Yes. And not only that but with permanent registration or continuing registration which we have now has increased it even more.

Q This has increased the number of registered voters, is that correct?

A Yes; and percentage.

Q Okay. And where in 1956 or 1958 you could mail to only those persons that had paid a poll tax --

A Right.

Q -- county wide, you find now that you have to mail to a substantially greater number --

A Yes.

Q -- if you're going to mail them?

A Seems like 320,000 last time.

Q 320,000 county wide, is that right?

A I can remember when we could mail to something like 20,000.

Q All right. Now, in that connection, you are familiar with, are you not, or have been familiar with, as you say, different candidates' attitudes toward the different media or means of communicating their candidacy in the district or county?

A Yeah.

Q All right. And some have relied almost wholly on mailing, have they not, --

A Yes.

Q -- in years past?

A Uh-huh.

Q All right. As between a constituency of 75,000 and a constituency of nine times 75,000, from a practical standpoint a direct mail campaign is nine times more expensive, is it not?

A Right. Well, you take 320,000 and divide it by nine, how many would that be?

Q You're talking about the whole county and we're talking about District 32.

A They'll take a little out of that, maybe knock it down to 300,000, divide by nine, nine into 300,000 would be what?

Q I don't know.

MR. GEORGE: 27,000.

THE WITNESS: Nine into thirty is --

MR. YORK: About three and a third, something like that.

THE WITNESS: Thre e and a third. So you're talking about 30,000.

Q (By Mr. Gladden) Thirty thousand?

A Thirty thousand, a mailing of 30,000 would get it in a district.

Q All right. As opposed to 300,000?

A As opposed to 300,000 in District 32 which we presently have.

Q So a direct mail campaign is nine times less

efficient in a multi-member district or nine times more expensive, is that correct?

A Right. That would also be true of a handbilling door-to-door type operation.

Q From a geographic standpoint?

A From a geographic standpoint.

Q You could cut out and do a door-to-door distribution?

A Of handbills.

Q All right. You mentioned David Finney awhile ago. He is a member of the Legislature from District 32, is that correct?

A Right.

Q All right. In conjunction or in connection with the cost of a campaign and your estimate as to $20,000.00 being a minimal successful campaign, there are, of course, those who have run on- who have spent substantially less, is that correct?

A Oh, yes, yes.

Q All right. And won?

A Yes. I concede that.

Q All right. Present membership, advertisement and name familiarity is accumulative, is it not?

A Yes.

Q In that a member of the Legislature who is an

incumbent who has run for public office has accumulative name familiarity?

A Yes. And also a person who has been in the news such as a TV announcer.

Q Such as Mr. Sherman?

A Such as Mr. Sherman. You know, Mr. Sherman originally beat an incumbent and he was better known than this incumbent was because of his exposure on television.

Q All right. And in connection with your estimate as to the cost of a campaign, I assume that you're assuming that an average person who does not have a built-in name familiarity, it would take a minimum of $20,000.00, is that correct?

A Yes.

Q And someone like Mr. Sherman who has been on the ballot for several years and who started out as a TV sports announcer, it wouldn't take that much money for him?

A He conceivably wouldn't spend that much, but I doubt if he's ever spent any less because he's had resource to the funds. You know, I'm not blaming him. I probably would in his place, too, but he could have maybe gotten by with less.

Q As for example, Chris Miller who was elected this last time, is that correct?

A Right.

Q From her starting out in a campaign in District 32

with her name familiarity and the people knowing her and not knowing her, it was necessary to spend a minimum of $20,000.00, is that correct?

A I would think so. And I don't know what she spent.

Q All right. And in that connection, she did have also a built-in advantage that she was running against a fellow that, though he wasn't convicted of anything, got caught leasing equipment to the State, is that correct?

A From his own firm, yes.

Q He was in the business of leasing stuff to other members of the Legislature and letting the --

A And she also had the advantage that she was a former newspaper reporter and in the Public Relations business and had a much stronger, closer relationship with the media that helped her a great deal, I'm sure.

And, also, the fact that she did -- does have some money of her own.

Q But from the standpoint of starting from scratch with her campaign, in order to acquaint the community --

A Just to get her name before the public, she had to spend that much money, yes.

Q Do you have an opinion as to what she stood for?

A I don't know as what she stands for has anything to do with it. You know, State Representative races, it's a popularity contest and you've got to be the best-known name.

Q All right. Why is it a popularity contest in District 32?

A Why is it?

Q Yes.

A I don't know. I don't know as it's any different in District 32 than it is anywhere else for the State Legislature. It's just that people are just not as interested in the State Legislature as -- they don't feel as close, I guess, to a State Representative as they do to a County Commissioner or a Justice of the Peace who's right here and they seem to understand their function better even though, you know, you and I and a lot of us in this room know that there's no more important office than the Legislature, but the general public don't seem to understand that and they're --

Another reason is that we have such a long ballot, especially in the Democratic Primary, and we've always got state offices, governors, senators, attorney generals, and by the time the ordinary person has absorbed all the rhetoric, good or bad, from all these people running for these offices, by the time they come to a lower race of State Representatives, they're pretty well saturated and they get to where they just don't give a damn, you know.

Q All right. Do you think the fact that they have to acquaint themselves with the positions and the backgrounds of nine times the number of candidates that would be fielded in

a single member district may have something to do with --

A Oh, yeah, definitely. I know this -- this certainly has a great effect on the knowledge that a person has, you know --

One of our functions is to try to encourage our members to correspond with the members of the Legislature on specific legislation that we're interrested in either defeating or passing, and generally we'll ask somebody to write their State Representative and they say, "Who is my State Representative?"

And you tell them they've got nine, they lose interest. They just don't -- they just can't comprehend that they've got nine State Representatives.

Q And by the same token a person seeking to advertise District wide his position and his name for the Legislature does not really advertise his name just against his opponent but it's against all the other candidates for the State Representative, is that correct?

A Right. A long ballot and many other offices that have a predominance in the eyes of the voters over the candidate for State Representative.

MR. GLADDEN: I believe that's all.

MR. YORK: I don't have anything further.

CHANGES AND/OR CORRECTIONS

PAGE	LINE	REASON

_____

MR. JOYCE WENDELL SIFFORD

STATE OF TEXAS §

§

COUNTY OF _____ §

SUBSCRIBED AND SWORN TO BEFORE ME, the undersigned authority, on this _____ day of November, 1973.

_____

Notary Public in and for
_____ County, Texas

STATE OF TEXAS

COUNTY OF TARRANT

I, Gaylord Sturgess, a Notary Public in and for Tarrant County, Texas, do hereby certify that the facts stated by me in the caption to the within and foregoing deposition are true; that said deposition was taken before me pursuant to the agreement of the parties; that the within named witness was duly sworn to testify the truth; that the questions asked and the answers given were taken by me and subsequently transcribed by me and reduced to typewriting by me or under my supervision, and that the within and foregoing typewritten pages constitute and contain a full, true, complete and correct transcript of all proceedings had.

I further certify that I am neither attorney for, related to nor regularly employed by any of the parties hereto, and, further that I am not a relative or employee of any attorney or counsel employed by the parties hereto, and that I am not in any way financially interested in the outcome of said proceedings.

TO CERTIFY WHICH, Witness my hand and seal at Fort Worth, Tarrant County, Texas, this ____ day of November, 1973.

GAYLORD STURGESS-COURT REPORTER
UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF TEXAS
NOTARY PUBLIC IN AND FOR
TARRANT COUNTY, TEXAS

IN THE UNITED STATES DISTRICT COURT

FOR THE WESTERN DISTRICT OF TEXAS

AUSTIN DIVISION

FRANK ESCALANTE, ET AL	
VS.	NO. A-73-CA-115
MARK WHITE, ET AL	

ORAL DEPOSITION

OF

BETTY J. FISCHER

ORAL ANSWERS AND DEPOSITION of the witness, BETTY J. FISCHER, in answer to questions propounded to her in the above entitled and numbered cause, taken by the Plaintiffs before Gaylord Sturgess, a Notary Public in and for Tarrant County, Texas, in the Law Offices of Don Gladden, 702 Burk Burnett Building, Fort Worth, Texas, on November 6, 1973, pursuant to the hereinafter set out Agreement of counsel:

APPEARANCES

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MARVIN COLLINS, ESQ.
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R. JAMES GEORGE, JR., ESQ.
MESSRS. GRAVES, DOUGHERTY, GEE,
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INTERVENOR

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807 E. Abram
P. O. Box 846
Arlington, Texas 76010. . . FOR THE TARRANT COUNTY
REPUBLIC LEGAL COMMITTEE
& TARRANT COUNTY REPUBLICAN
REDISTRICTING COMMITTEE

STIPULATION

IT IS STIPULATED AND AGREED by the parties to the above entitled and numbered cause, through their attorneys appearing herein, that the Oral Deposition of the within named witness may be taken at this time before Gaylord Sturgess, Official Court Reporter, United States District Court for the Northern District of Texas, and a Notary Public in and for Tarrant County, Texas.

IT IS FURTHER STIPULATED AND AGREED that all formalities with reference to the taking and returning of said deposition are hereby waived except as to form of questions or responsiveness of answers; and that the witness may return and sign her deposition before any qualified Notary Public of the State of Texas.

IT IS FURTHER STIPULATED AND AGREED that the questions and answers so propounded and given, together with all other proceedings had, when transcribed by the Court Reporter, may be used in either or all of the cases pending herein by either party hereto, subject to such objections as could be made if the witness were on the stand testifying in person, without the necessity of filing written objections to any question or answer, and without the necessity of making objections at the time of taking said deposition.

BETTY J. FISCHER,

called by the Plaintiffs, having first been duly sworn to testify the truth, the whole truth and nothing but the truth, testified as follows, to-wit:

EXAMINATION

BY MR. GLADDEN:

Q State your name, please.

A Betty Fischer.

Q In that connection, you're Mrs. J. Nile Fischer?

A That's correct.

Q And where do you live, Mrs. Fischer?

A 1507 Bluebonnet Trail, Arlington.

Q And that's situated in Tarrant County?

A Yes.

Q All right. In that connection, I'll ask you how long you've lived in the Tarrant County area continuously?

A Since 1953.

Q All right. And I'll ask you whether or not you have been active in politics during any portion or period of that time?

A Since 1956.

Q In that connection, I'll ask you when did you first become involved in the political processes in Tarrant County

and in what capacity or what function?

A My first involvement was doing telephone campaigning for the presidential candidate, Adlai Stevenson, in 1956.

Q All right. That was in the fall of 1956, is that correct?

A Yes.

Q All right. And you say telephone solicitation?

A Yes.

Q Were you recruited to do that sort of thing by anyone in particular or how did you become involved in that campaign?

A I was recruited by an acquaintance to do that telephoning.

Q All right. And I'll ask you whether or not you continued to be active in politics in Tarrant County thereafter?

A Yes. The next spring I worked in Senator Yarborough's campaign in a special election, and then from 1960 to the present time I have worked almost continuously as a volunteer in several different type of campaigns.

Q In that connection, I'll ask you, are you employed in any manner, are you a housewife or what is your circumstance with respect to your employment?

A I'm housewife.

Q All right. And your husband's background and what sort of work does he do?

A He's an engineer with Bell Helicopter.

Q All right. And has he been in engineering during the entire period of time that you're talking about?

A Yes.

Q All right. Mrs. Fischer, I'll ask you whether or not you've done any research and some work in connection with the preparation of the lawsuit in which you're testifying?

A Yes, I have.

Q All right. I'll ask you whether or not Plaintiff's Exhibit No. 1 was in part prepared either by you or under your supervision and direction?

A Yes, it was.

Q I'll ask you whether or not Exhibit No. 1-A reflects the boundary lines of the Legislative District, District 32, does it not?

A Yes, it does.

Q And it also reflects that portion of District 42 situated in Tarrant County, is that correct?

A Yes.

Q Now then, there's one slight exception to that, and that is in the upper northwest portion there are some census tracts since 1971 were moved from District 42 into District 32, is that correct?

A Yes, sir.

Q Did it appreciably change the make-up of District

32?

A No.

Q All right. Now, other than the district lines, I'll ask you whether there's other information appearing on that map?

A Yes, there are.

Q All right. Now, the other information is what?

A It's the green x's indicating the residences of the present Legislative delegation at the time that they were elected in 1972.

Q All right. I'll hand you what has been previously identified as Plaintiff Escalante Exhibits Nos. 3-A through 3-I, and ask you if you can identify those?

A Yes. These are copies of voter registration applications of each of the State Representatives from the County Tax Assessor-Collector's office.

Q For the year 1972?

A Yes.

Q All right. Now then, do the green x's on Plaintiffs Escalante's Exhibit No. 1-A correspond with the general location and particularly the census tract of those voter applications as shown in Plaintiffs Escalante Exhibits 3-A through I?

A Yes. They are within the census tracts as shown.

Q All right. Now, Plaintiffs' Exhibit No. 3-A

through I were prepared and certified by the County Clerk's office at your request, is that not correct?

A County Tax Assessor-Collector's office.

Q Oh, by the County Tax Assessor-Collector's office?

A Yes, they were.

MR. GLADDEN: All right. We offer Plaintiffs Escalante Exhibits 1-A and 3-A through 3-I into evidence.

MRS. LEVATINO: That's fine.

Q (By Mr. Gladden) All right. In this connection, Mrs. Fischer, the information which is contained on Plaintiffs' No. 1-A, in addition to the lines which you have caused to be put on it, reflect census tract information that was placed on there by the Texas Legislative Council, is that correct?

A Yes; and population.

Q And population figures, all right.

Now, those population figures and the census numbers are taken from the census, the 1970 census as conducted by the United States Department of Commerce, is that correct?

A That's correct.

Q As is reflected in the census tract information for the standard metropolitan statistical area of Fort Worth?

A That's right.

Q All right. Now then, you have done substantial research and studies and comparisons relative to the social, economic and ethnic make-up of District 32.

I'll ask you whether or not you used as a primary reference the Department of Commerce publications prepared following the 1970 census?

A Yes, I did.

Q All right. In that connection, your primary reference material was publication No. "PHC (1)-74" entitled "Census Tracts Fort Worth, Texas, standard metropolitan statistical area, 1970 census of population and housing," is that correct?

A That is correct.

Q All right. And basically, that information was directed toward these census tracts as shown on Plaintiff Escalante Exhibit 1-A?

A That's true.

Q All right. Now, in some instances, in order to do some computation and figuring, it was necessary for you to go to a tract of something smaller than the census tract, is that correct?

A Yes.

Q And in that connection, it was necessary for you to go to a Department of Commerce publication which was prepared following the 1970 census, No. "HC (3231)" titled "Block Statistics, Fort Worth, Texas, Urbanized Area, 1970 census of housing," is that correct?

A Yes.

Q All right. Now, these two publications were the basis upon which you built census tract information, is that not correct?

A Yes.

MR. GLADDEN: All right. We don't have copies to be submitted. We will offer for the purpose of the record as a basis for her later testimony copies of both of these publications.

MS. LEVANTINO: That's fine.

MR. GLADDEN: You have no objections to their being substituted, being offered and given to the Court Reporter to be included?

MS. LEVANTINO: That's fine.

Q (By Mr. Gladden) Now, in connection with Plaintiffs' Exhibit 1-A, the portion of that map which is contained in the center and inside the black lines is District 32, is that correct?

A That's correct.

Q And with that one slight exception that portion outside the black lines is District 42?

A That is right.

Q All right. I'll ask you whether or not you prepared and made a division of the county into four basis sections -- not the county, excuse me, the district into four basis divisions in order to make some statistical evaluation as to

economics and mean family income?

A I did.

Q All right. I'll hand you what has been identified as Plaintiffs' Exhibit No. 1-B and ask you if that map accurately reflects the lines which you used in dividing the county into these subdivisions or subsections?

A Yes, it does.

Q All right. In that connection, I'll ask you if you have used Plaintiffs' Exhibit No. 2-A and B which will be the census, the Department of Commerce Census Bureau material, as the basis for the information that you have or the comparative information that you have prepared?

A Yes, I did.

Q All right. Would you tell the Court what the basis make-up of these four quadrants of the county -- first of all, there's a northeast, a northwest, a southwest and a southeast quarter, is that correct?

A Yes.

Q Would you tell the Court what the make-up of these quarters of the county are with respect to mean family income and size and also population data, if you have it?

A Well, in the whole of District 32 we have a population of 675,368 with total population of 82 percent white.

There are 147 census tracts in District 32.

Then when we go to the quadrants, starting with the

northwest quadrant which has a population of 171,241. It is 82 percent white, 7 percent black and 11 percent brown with a mean family income of $9,317.00; a mean family size of 3.88. Two representatives presently live in the northwest quadrant.

The northeast quadrant has a population of 178,067. The white population is 95 percent of the total, brown is 3 percent, black is 2 percent. The mean family income in the northeast quadrant is $12,605.00. The mean family size is 3.77, and four representatives live in this quadrant.

The southeast quadrant has a population of 153,811. The white population is 61 percent, the black population is 36 percent, the brown population is 3. The mean family income here is $9,093.00. The mean family size is 3.98.

Arlington falls in -- part of Arlington falls in the southeast quadrant. Arlington is unique in the fact that it is a separate entity in the county. The income in Arlington is much higher. It is almost a totally white community.

So I did take Arlington out of the southeast quadrant and the southeast quadrant of District 32, without Arlington, has 109,658 population. The white population is 47 percent, the black population is 49 percent, the brown population is 4 percent. The mean family income then drops to $8,815.00. The mean family size in the southeast quadrant is 4.04 and no representatives in the southeast quadrant.

Q The southeast quadrant including Arlington as well

has --

A Including Arlington.

The southwest quadrant has a population of 172,420. The white population is 87 percent, the black population is 7 percent, the brown population is 7 percent. The mean family income in the southwest quadrant is $13,374.00. The mean family size is 3.74 and three representatives live in the southwest quadrant.

Q All right. In that connection, there is some difference between the southeast quadrant in terms of population. You attempted to base your quadrant size on population, is that correct?

A That's correct.

Q All right. In that connection, at the time that you made these original computations, you were contemplating the Supreme Court finding the entire Legislative Redistricting Plan unconstitutional and your original figures included some of those districts or some of those census tracts which are now in District 42, is that correct?

A That's correct.

Q All right. Now, back, Mrs. Fischer, to your activity in political campaigns.

You testified you did telephone solicitation for Stevenson in '56, Yarborough in '67.

Since '60, what have you done in the nature of

being involved in and acquainting yourself with the political process in Tarrant County?

A I've worked in numerous Legislative races.

I co-managed Frances Farenthold's race here in the county last spring.

I have managed three voter registration campaigns.

Most of my work has been done primarily in precinct type organization, precinct type work.

I have belonged since 1964 to the Tarrant County Democratic Woman's Club, I served as president of that organization for two terms from 1968 to 1972.

I have belonged to the Democratic Organizing Committee, served as a vice-chairman of that organization for six years, am presently the chairman of the Tarrant County Democrats.

Q All right. In that connection, you are familiar with and have been familiar with history --have been familiar with the Democratic Party during the periods of time that you've been active from 1956 to the present time, are you not?

A Yes, I am.

Q All right. In addition to that, because of your activities, you've made yourself acquainted with the history of the Democratic Party in Tarrant County prior to the time when you actually became personally involved, is that correct?

A Yes. The Democratic Woman's Club has been in

existence since 1932 and has a scrapbook dating back to 1934, and served as an educational organization, and I've had quite a chance to do some research in the history of politics in Tarrant County.

Q All right. Are you familiar with whether or not there's ever been a black candidate run for the Legislature prior to the time that you got involved in politics in 1956 in the Democratic Primary?

A Yes.

Q I will ask you whether or not any have run prior to 1956?

A No.

Q All right. Up to 1956, then, the Democratic Primary was a completely white primary insofar as at least Legislative candidates were concerned?

A Yes.

Q All right. And then I'll ask you if you have been familiar with the candidates since the time that you first got involved in the political process in around 1956?

A Yes.

Q All right. And you know the ethnic background and what-not of each of the candidates?

A Yes.

Q I'll hand you what has previously been identified as Plaintiffs' Escalante Exhibit No. 4 which purports to be

copy of the Democratic Primary election ballots for the years 1960 through 1972 with the exception of the years 1964 and '68, and in those years tally sheets are supplied rather than ballots.

Was this obtained pursuant to your supervision and collection for this lawsuit?

A Yes, it was.

Q All right. In that connection, I'll ask you if you have had occasion to examine these ballots?

A Yes, I have.

Q All right. And I'll ask you whether or not you've determined the number of candidates that have sought the Democratic nomination for the State Legislature during the years 1960 through 1972 as shown on that exhibit?

A Yes. There were 136 candidates during those years.

Q All right. Now then, would you tell the Court how many of those candidates were black?

A Three.

Q All right. And their names were?

A Charles Grays in 1968, Bobby Webber in 1972, and Jim Gaskin in 1972.

Q All right. Now, then, in addition to that, did you examine those ballots and refresh your memory as to whether or not there had ever been any candidates during that period of time with Spanish surnames or Mexican-American ancestry?

A For Legislative purposes, there have been two wit

Spanish surnames or Mexican-American ancestry.

Q You did examine the ballots?

A Yes, I did examine the ballots.

Q In that connection, how many have been with Mexican-American surnames?

A Two with Mexican-American surnames, Harold Valdez in 1964 and Robert Ramirez in 1968.

Q It is Harold Valderas.

A Valderas, I'm sorry.

Q Now, other than those five candidates, out of how many?

A Out of 136.

Q Okay. Other than those five, do you know of any candidates for the Legislature during that period of time that were either black or brown or have any other identifiable ethnic minority?

A No, I do not.

MR. GLADDEN: All right. We offer Plaintiffs Escalante Exhibit No. 4 which is the Democratic Party ballot.

MS. LEVANTINO: No objection.

Q (By Mr. Gladden) All right. I hand you what has been identified as Plaintiffs' No. 5, Plaintiffs Escalante Exhibit No. 5, and ask you if that is a compilation of candidates which appeared on the Republican Primary ballots during the years 1960 through 1972?

A Yes, it is.

Q In that connection, I'll ask you if you've had an opportunity to examine that list?

A Yes, I did.

Q All right. In that connection, I'll ask you whether or not Republican candidates were fielded in the general election years during the period 1960 through '72 for Legislative races?

A Yes, they are.

Q I'll ask you whether or not you know if any of them ever won or not?

A None ever won.

Q All right. You're familiar with the history of Tarrant County.

Has there ever been a Republican member of the House of Representatives elected to the Legislature?

A No.

Q Now, with respect to the three Legislative candidates that you've identified as being black, I'll hand you Plaintiffs Escalante Exhibit 6-A, B and C and ask you if you can identify those exhibits?

A Yes. This again is voter registration applications -- copies of voter registration applications from the County Tax Assessor-Collector's office. These are for Charles Grays, Bobby Webber and James Gaskin.

Q And those are the three black persons that have sought the Democratic nomination for State Representative?

A That's correct.

Q In that connection, those are the 1972 voter application for voter registration, are they not?

A Yes, sir.

Q You testified Charles Grays ran in 1968. Were you personally acquainted with Mr. Grays at that time?

A Yes, I was.

Q Were you familiar with where he lived at that time?

A Yes, I was.

Q And does he live at the same place as he did when he ran in 1968?

A Yes, he does.

MR. GLADDEN: All right. We offer Plaintiffs Escalante Exhibits 6-A, B and C.

MS. LEVANTINO: No objection.

Q (By Mr. Gladden) I hand you what has been identified as Plaintiffs Escalante Exhibit No. 1-C and ask you if this instrument was prepared either under your supervision or by you?

A Yes, it was.

Q All right. In that connection, again this is a census tract map, the basis map being prepared by the Legislative Council and contains the lines on District 32 with that slight

deviation, is that correct?

A That's correct.

Q All right. And in addition to that information, I'll ask you what other information is reflected on that map?

A This map shows the black population of Tarrant County -- of District 32 to be 80,336 or 12 percent of the district. The blue area --

Q Excuse me just a moment now. In this connection, you used Plaintiffs' Exhibits 2-A and 2-B to make calculations as to black concentration, is that correct?

A Yes, I did.

Q All right. Now, that's the census tract information?

A Yes.

Q Now, then, what does this map reflect and how do you go about --

A This map reflects, the blue areas are the 25 census tracts that have greater than 30 percent black population in them.

There are only 15 census tracts in the district where the blacks comprise more than 5 percent and less than 30 percent in population.

All of the 15 tracts except for three are contiguous with these blue areas.

Q Now, by the 15 tracts, you're talking about the 15

tracts that have --

A Less than 30 percent.

Q Okay.

A And there are three tracts with less than 30 percent that are in smaller suburban areas and do not touch this blue area here.

Q All right.

MR. YORK: I'm confused. Is she saying more than 30 percent or less than 30 percent?

Q (By Mr. Gladden) The blue area represents census tracts where there is 30 percent or more black population?

A Yes.

Q All right. In addition to that, there are how many more tracts that have some black population in them?

A Fifteen tracts with some -- less than 30 percent in them.

Q And of those 15 tracts, 12 of those 15 tracts are contiguous with this blue area?

A Yes.

Q And if you don't mind me testifying here a little bit, there are three census tracts that are not contiguous with but which are situated in other --

A Incorporated cities.

Q -- incorporated cities?

A Yes.

MR. YORK: Has this man been sworn?

MR. GLADDEN: I told you I was going to do this.

MR. YORK: But you were saying that other groups of under 30 percent also had a lower limit on it, as I understood it, five to 30 percent?

THE WITNESS: Five to 30 percent.

Q (By Mr. Gladden) I didn't know I'd done that. Okay.

So there are 18 tracts then or 17 tracts. Eighteen tracts are from 5 to 30 percent?

A There are 15 tracts between 5 and 30 percent.

Q Okay.

A Twelve of those 15 fall next to this blue area. Three tracts are in suburban areas.

Q Okay. So your computations then are that besides this blue area of black concentration there are 15 tracts in District 32 that have more than 5 percent blacks and less than 30 percent blacks?

A That's correct.

Q And that of these 15, 12 of them are contiguous with the blue area?

A That's right.

MR. GLADDEN: Understand it now? I'm beginning to.

Q (By Mr. Gladden) All right. Now, then, in that connection, did you make any computations or determinations as

to greater concentrations of black than the 30 percent as shown on the map?

A Yes, I did. There are 13 tracts where there is more than 75 percent black, and I did some income analysis of those, found that the mean income in the tracts with 75 percent or more black had a mean income of $6,570.00.

Q Did you make any determination as to the mean family size in those 13 tracts of more than 75 percent black population?

A Yes, I did. They had a mean family size of 4.04.

MR. YORK: Can I ask at that point if the greater than 75 percent black areas are within this blue area?

THE WITNESS. Yes, they are.

MR. YORK: Okay.

MR. GLADDEN: The blue area is 30 percent and so some of those within there are greater than that.

THE WITNESS: Yes.

MR. YORK: Okay.

Q (By Mr. Gladden) In that connection, I'll ask you whether or not you have shown on that map the voter information or registration of the three black candidates who have offered themselves for Democratic nominations?

A Yes.

Q All right. Would you idenify which census tracts each of the candidates live in?

A Charles Grays was in census tract 63, Bobby Webber is in census tract 4502; and Jim Gaskin was in census tract 39.

Q Now, in that connection, each of those residences were within the areas wherein there was 30 percent or greater black concentration, is that correct?

A That's correct.

Q Now, Mr. Webber has moved since 1972 or since the registration in '72.

Is his present residence still in one of those census tracts?

A Yes.

(Off record discussion.)

Q (By Mr. Gladden) I hand you what's been identified as Plaintiffs Escalante Exhibit Nos. 7-A, B and C and ask you if these exhibits were prepared not under your supervision but at your request by the County Clerk's office in Tarrant County?

A Yes, they were.

Q All right. And those exhibits reflect the returns from selected Legislative races during 1968 and '72, is that correct?

A That's correct.

Q It shows the returns in 1968 Charles Grays-Bud Sherman race, the Place Five race, between Schieffer-Webber-Shannon and Beck in 1972, and the Place Nine race in 1972 all in the Democratic Primary, incidentally, of Willis-Ziegel-

meyer and Gaskin in 1972, is that correct?

A That's correct.

Q All right. Now these are the three Legislative races in the Democratic Primary that have had a black candidate, is that correct?

A That's correct.

Q And these are first primary returns?

A Yes.

MR. GLADDEN: All right. We offer Plaintiffs Escalante Exhibits No. 7-A, B and C in evidence.

MS. LEVANTINO: No objection.

Q (By Mr. Gladden) All right. I hand you what has been identified as Plaintiffs Escalante Exhibit 8-A, B, C and D and ask you if those were prepared at your request by the County Tax Assessor of Tarrant County?

A Yes, they were.

Q All right. And I'll ask you if those instruments are a tabulation of the total registered voters in Tarrant County by precincts for the years 1968, 1970 and 1972?

A That's correct.

MR. GLADDEN: For your exhibit information, that should be 70 instead of 60.

And "A" and "B" are 1968 and '70.

"C" was the one prepared in April of 1972 in anticipation of the primaries. And "D" is in November of 1972

in the general election, is that right?

A That's right.

MR. GLADDEN: All right. We offer Plaintiffs Escalante Exhibits 8-A through D.

MS. LEVANTINO: No objection.

Q (By Mr. Gladden) I hand you what has been identified as Plaintiffs Escalante Exhibits No. 9 and ask you if that was prepared at your request by the County Clerk's office?

A It was.

Q And I'll ask you if that is a compilation of the total votes actually cast in the Democratic, Republican Primaries of 1968, '70 and '72 and the general election of each of those years?

A Yes, it is.

Q All right. And that was of selective precincts, is that correct?

A That's correct.

Q You were the person that did the selecting in terms of which precincts that you wanted prepared, is that correct?

A That's correct.

Q All right. Now, based upon those figures and upon the census information that you previously identified, have you done any statistical analysis as to whether or not there is any evidence of black polarization or polarization of votes with respect to black Legislative candidates?

A Yes, I have.

Q Now, would you tell the Court just what steps you went through and what information you used and how you acquired this information in this process?

A All right. In the 1968 race where Charles Grays and W. C. Bud Sherman ran against each other, I first took the 17 black precincts of Tarrant County and determined --

Q Excuse me. By 17 black precincts, what do you mean by 17 black precincts?

A These are the 17 precincts that have a high number of blacks residing in them, traditionally have voted -- are black population.

Q All right. In that connection, are all of those presided over or were all of those presided over by black precinct chairmen?

A All but two; precinct 1 and precinct 10 did not have black chairmen.

A All right. In this connection, Tarrant County was composed of approximately 152 voting precincts in 1968, is that correct?

A One hundred fifty nine.

Q One Hundred Fifty Nine in that year?

A Yes.

Q All right. And you were familiar with the make-up of those geographically, is that correct?

A That's correct.

Q This was based upon your activities and voter registration in political campaigns?

A Yes.

Q All right. And you were familiar with the ethnic and economic make-up of the geography of Tarrant County and could relate it to precincts, is that correct?

A That's correct.

Q All right. And is it your testimony that you're using by what you call black precincts those precincts where they had black precinct chairmen, plus these two that you, of your own knowledge, knew to have an extremely high concentration of black population?

A That's right.

Q All right. Precinct One, for instance, is in the downtown area or was in the downtown area, and was composed of the east side of Main Street wherein there is a lot of black low-income, is that correct?

A And north of the Courthouse where there is a lot of blacks.

Q All right. Now, if you'll go ahead and tell us what your findings were in connection with the 1968 race, using these figures?

A In the 17 black precincts, Charles Grays received 4,290 votes or 89 percent of the votes from the black precincts.

Bud Sherman received 540 votes or 11 percent of the votes in the black precinct.

Charles Grays in the remaining 142 precincts which were predominantly white had 18,094 votes or 27 percent of the vote.

Bud Sherman had 47,788 votes or 73 percent of the white vote.

Q All right. Did you do the same computations for the 1972 races involving Webber and Gaskin?

A Yes, I did.

Q All right. Would you tell us first about the Webber race?

A All right. By 1972 we had two additional predominantly black precincts so I'm now talking about 19 black precincts.

Q By that are you saying that there were two -- now, how did you go about determining that those were black precincts?

A Well, the movement has been from the inner city to the outer areas of the town, and there have been two precincts where the leadership has changed from white precinct leadership to black precinct leadership.

Q So of these 19, 17 of those --

A Have black chairmen.

Q -- have black chairmen and the other two are predominantly black although they have white precinct chairmen?

A They're still the same two; one and ten.

Q Would you tell the Court what your findings and calculations are on the Webber race?

A Webber is Place Five, District 32, he received 6,732 votes or 77 percent of the black vote.

Tom Schieffer received 1,205 votes or 14 percent of the black votes.

Mr. Shannon received 517 votes, Mr. Beck 277; not even one percent for either of them.

In the 157 white precincts --

Q Excuse me. Can you give a total, an overall total of the combined Shannon-Schieffer-Beck vote in the black precincts?

A 2.3%, Mr. Shannon got all of it.

Q That's Mr. Shannon that got --

A I mean Mr. Schieffer got all of it.

Q Well now, wait a minute.

A Mr. Shannon and Mr. Beck both got less than 1 percent.

(Off record discussion.)

Q (By Mr. Gladden) Mrs. Fischer, in connection with your references to black votes in black precincts: the 17 precincts that you've mentioned in connection with the Grays race in '68 and the 19 precincts that you've mentioned with respect to the Gaskin and Webber races in '72, those ar

precincts that are almost exclusively black precincts, is that correct?

A That's correct.

Q Where the population is in excess of at least ninety percent?

A I would say so.

Q Except possibly Precinct 10 which is one of those that you mentioned as being one with a white precinct chairman?

A Yes.

Q All right. And so, when you talk in terms of and when you've mentioned these statistical figures in saying Webber got so much percent of the black vote and Schieffer got so much percent of the black vote, you're speaking not necessarily of the black vote but of the total votes cast in those particular precincts?

A That's right.

Q And as a practical matter, you are familiar with and aware of the fact very few white people vote in those precincts with the exception of a few in Precinct 1 and a few in Precinct 100?

A That's right.

Q And the precincts such as 58 and 59, a hundred percent black vote in those, is that correct, so far as you know?

A Yes.

Q Okay. Now, if you'll go on with your statistical

figures.

I believe we were talking about the place 5 race in 1972 in which there were four candidates. You testified that Webber got 77 percent of the vote in those 19 selective precincts, is that right?

A That's correct.

Q And Schieffer got the balance?

A That's right.

Q With the exception of a small number that Tommy Shannon, the incumbent, and Tommy Beck received?

A That's right.

Q In that connection, Mr. Schieffer did have -- or at least as best you could determine Mr. Schieffer did have Seventh Street support and Mr. Webber had the non-Seventh Street slate support, is that correct?

A That's right.

Q All right. Now, if you will, tell us about the Gaskin race, the Place 9 race between Willis, Ziegelmeyer and Gaskin in 1972?

A Would you like to hear how Mr. Webber fared in the white precincts in 1972?

Q Excuse me. I'll have to back up. I lost my place on the exhibit.

All right. Tell us about how the candidates in Place 5 fared in the non-black or the remaining precincts

the county.

A There were 157 precincts that were predominantly white. Mr. Webber received 25 percent of that vote, Mr. Schieffer 44 percent, Mr. Shannon 16 percent, Mr. Beck 15 percent; the Schieffer-Shannon-Beck combination was 75 percent of that vote.

Q All right. So the vote was roughly 75 for the total -- for the combined white candidates to 25 for the black candidate outside these almost exclusively black precincts and just almost the opposite in the 19 selected precincts where Webber got 77 and the combined white vote was 23, is that correct?

A That's correct.

Q Now then, will you tell us about the Place 9 race?

A Place 9, District 32, Jim Gaskin, Doyle Willis and Mrs. Ziegelmeyer. And the 19 predominantly black precincts, Jim Gaskin received 32 percent of the vote, Doyle Willis 57 percent of the vote, Mrs. Ziegelmeyer 11 percent of the vote.

Q Excuse me. In that connection, by then there were a greater number than 159 precincts in Tarrant County, is that correct?

A That's correct.

Q How many were there?

A There was 176.

Q One hundred seventy six voting precincts in 1972?

A That's right.

Q All right. So you're talking about 19 as compared to a total of 176?

A That's right.

Q All right, go ahead.

A The combined white vote in the 19 selected black precincts was 68 percent, Mr. Gaskin's was 32 percent.

And the 157 remaining precincts which are predominantly white, Mr. Gaskin received 20 percent, Mr. Willis 57 percent and Mrs. Ziegelmeyer 23 percent.

Mr. Willis and Mrs. Ziegelmeyer received a combined total of 87 percent of that vote.

Q All right. So the white community voted 80 percent or the non-black precincts voted 80 percent for the combined two white candidates, is that correct?

A That's correct.

Q All right. Now, in connection with the black vote for Gaskin, I believe you testified it was 33 percent?

A Thirty two percent.

Q Thirty Two percent in these 19.

You used the same 19 precincts in making your computations in both the Webber and the Gaskin computations, right?

A That's right.

Q All right. Are you familiar with whether or not

the Tarrant County Precinct Workers Council endorsed either Webber or Gaskin?

A They endorsed Mr. Webber; they did not endorse Mr. Gaskin.

Q All right. Now then, in connection with the voter participation, have you made any kind of a study to determine the turn-out or the voter participation among blacks and whites in District 32?

A Yes, I did.

Q All right. And did you base your calculations on exhibits now in evidence?

A Yes, I did.

Q All right. Would you tell the Court what exhibits you used and how you went about making a comparison and what your comparison shows?

A I used Exhibit 9 and Exhibit 8-A, B, C, and D.

Q All right. Now, what you're talking about is that the total registered voters as shown in Exhibits 8-A through D and Exhibit 9 which are selected actual votes cast as certified by the County Clerk's office, in that connection you selected the precincts from which the County Clerk certified the voter turn-out or voter participation as shown in Exhibit 9, is that correct?

A That's correct.

Q All right. And would you tell the Court the basis

upon which you made selections of those specific precincts?

A. I selected five black precincts with the heaviest concentration of black votes in them and did it on a geographic basis as best that I could spread them across the county and across the economic spectrum of the black community as well. I selected ten white precincts based on the high concentration of white voters and geographically spread across the county and economically across the sphere of income in the county.

Q. All right. Now, plaintiffs Exhibit No. 9 does reflect the specific precincts that you had selected, is that correct?

A. That's correct.

Q. All right. What were your conclusions or what were your findings in using these, as far as comparing the information on Exhibit 9 back against Exhibits 8-A through D, what were your conclusions with respect to voter turn-out?

A. That in the primaries as well as the general election there's a much lower voter turn-out in the black precincts than there is in the white ones.

In 1968 in the primaries blacks voted 32 percent of their total registered voters, the whites 39 percent of their total registered voters.

The general election of the same year, the blacks voted 77 percent of their total registered voters, the whites

77 percent of theirs.

In 1970 it's pretty much the same with the blacks voting in the primary at 28 percent of their strength, whites voting 31 percent.

Q. By whites, you're talking about those precincts--

A. Those selected white precincts.

Q. All right.

A. And in the general election of that year, the blacks voted 43 percent of their strength, the whites voted 57 percent.

In 1972 in the primary, the blacks turned out 30 percent of their registered voters, the whites 34 percent.

In the general election of '72, the blacks voted 53 percent of their strength, the whites voted 72 percent of theirs.

Q. All right. Mrs. Fischer, is it your testimony that in 1972 in the primary when there were two black candidates seeking the Democratic nomination there was only 40 percent turn-out among the registered voters in those selected black precincts?

A. That's correct.

MR. GLADDEN: We offer, if we haven't already 8-A through D, and 9. I think we already did.

MS. LEVATINO: You might want to clarify to be sure you've offered it. I think there are a couple more that you missed before.

MR. GLADDEN: Okay, thank you.

MS. LEVANTINO: I wasn't keeping track.

MR. GLADDEN: At this point in time, we'd like to, in order to recap, offer, if we have not already, 1-A, 1-B, 1-C; 2-A and B will be submitted later, the census tract information; 3-A through I, which is the voter registration applications of the present members of the Legislature; 4 which is the ballots of the Democratic Primary and tally sheets for the years 1960 through '72; 5, the certification of the Republican candidates for the year 1960 through '72; 6-A,B and C which are the voter registration applications of Charles Grays, Bobby Webber and Jim Gaskin for the year 1972; 7-A, B and C which are the returns for the Place 3, 1968 Democratic Primary, the Place 5, 1972 Primary, and the Place 9, 1972 Democratic Primary. In that connection, Place 5 was the first primary.

We have also offered and do offer Plaintiffs' Exhibits 8-A,B,C and D which is the certification of the total registered voters during '68 to '70, April, '72, and November, '72; and Exhibit 9, which is a certification by the County Clerk's office of the total votes cast in selective precincts in the Democratic and Republican Primaries and the general elections of 1968, '70 and '72.

Do you have any objections to any of those?

MS. LEVANTINO: No.

Q. (By Mr. Gladden) All right. Now I'll hand you Plaintiffs Excalante Exhibit No. 1-D.

MR. YORK: Let me say one thing for the record on these agreements that we're making as to the admissibility of evidence.

We certainly would reserve the right to perhaps offer other exhibits which might contest or seek to show conclusions different that the ones reached by these. By making these agreements we simply agree that these exhibits may be admitted into evidence while not necessarily agreeing that the conclusions are right or that they're the only conclusions to be drawn from the exhibits.

MR. GLADDEN: We understand. And in this connection we'd like to at this point tender that any certification by any records, party records of either the Republican or Democratic Party of Tarrant County, will go in by the same stipulation, in either selected or complete records; that if there are selected precincts that you seek to have certified and offered, we would have no objection and stipulate that those can go in and whatever conclusions that you might seek to reach will be weighed accordingly and that this stipulation, one does not go to the weight of.

If there's some information that is incorrectly reflected in this, you certainly have a right to contest the information in terms of numbers and what-not.

But all we're doing is letting these in and if they are what they are and presuming that they are admitted and that doesn't exclude any other records which might reflect other information relative to these things. Okay?

MR. YORK: Great.

Q. (By Mr. Gladden) Okay. Now, I've handed you Plaintiffs' Exhibit No. 1-D and ask you if this was prepared under your supervision or direction or by you?

A. Yes, it was.

Q. This also is a basic census tract map showing District 32, is that not correct?

A. That's correct.

Q. Now then, you have colored in a portion of that map. I'll ask you whether or not you have at my request made a determination, based upon the information contained in Plaintiffs' Exhibit 2-A and B, the census tract information, of those census tracts containing 30 percent or more brown Chicano or Mexican-American ancestry-type population?

A. Yes, I did.

Q. All right. And I'll ask you how many census tracts show 30 percent or greater Chicano population concentration?

A. Seven census tracts.

Q. All right. I'll ask you whether or not you, at my request, have done any computation to determine whether or not there is any brown versus the rest of the community or Mexican-

American versus the rest of the community polarization of votes in District 32?

A. I made an attempt to. I found that it was impossible to analyze the brown vote because there is no precinct with that high concentration of brown people in them.

Q. All right. In that connection, you're familiar with the make-up of the brown or the location of the Mexican-American population in Tarrant County,are you not?

A. Yes. And I did try to--I worked with figures from 48--Precinct 48 and Precinct 49 which have the heaviest concentration of browns. They're both in census tract 3 and 9, at least part of them was. But they also extend into the white areas and the white vote makes it impossible to determine brown polarization of votes.

Q. All right. And in that connection did you use Precincts 48 and 49--incidentally, those precincts, would you tell whether or not those precincts have Mexican-American precinct chairmen?

A. They both have Mexican-American precinct chairmen.
Forty-eight has had Mexican-American precinct chairmen since 1960, Mr. Lazo was elected in '60.

Q. All right.

A. I'll correct myself; he was elected in '62.

Q. Joe Lazo was Precinct Chariman and he was the first

Mexican-American to be elected Precinct Chairman in the Democratic Party, is that right?

A. That's right.

Q. He was elected in what year?

A. '62.

Q. He's Precinct Chairman of Precinct 48?

A. That's right.

Q. All right. What did you find in using Precincts 48 and 49 with respect to polarization of votes, what else did you use?

A. I just couldn't find any polarization of votes.

Q. All right. Did you go back to the Valderas and Ramirez races and look at the vote turn-out in those two?

A. Yes, I did. In the Valderas race of '64 and the Ramirez race in '68.

Q. And there just wasn't anything that you could reach any conclusion as to polarization?

A. No.

MR. GLADDEN: All right. We offer Plaintiffs Escalante Exhibit 1-D in evidence.

MS. LEVANTINO: No objection.

Q. (By Mr. Gladden) I'll hand you Plaintiffs Escalante Exhibit No. 1-E and ask you if that was prepared under your supervision or direction?

A. Yes, it was.

Q. All right. And I'll ask you if that again was the same basic census tract showing population and census tract designations and District 32 outlined?

A. Yes, it is.

Q. All right. I'll ask you whether or not that also shows economic information in terms of family incomes as based upon Plaintiffs' Exhibits Nos. 2-A and B?

A. Yes, it does.

Q. All right. I believe you testified earlier the mean family income of District 32. Would you tell us again what that is?

A. $11,296.00.

Q. All right. What does this information contained in Exhibit 1-E consist of and describe it, if you will, please?

A. All right. The information in 1-E is the pink area is that part or those census tracts that have $8,000.00 or less mean family income.
The purple tracts have $14,000.00 or more mean family income.
The part that is left white has between $8,000.00 and $14,000.00 mean family income.

Q. All right. In that connection, there's kind of a marked resemblance between the combination of 1-C and D and the pink portion of 1-E, is there not?

A. They are almost identical.

MR. GLADDEN: All right. Now then, we offer 1-E in evidence.

Q. (By Mr. Gladden) Okay. I hand you what has been identified as Plaintiffs Escalante Exhibit 10-A and B, 11-A and B, 12-A and B, 13-A and B, and ask you if you can identify the instruments?

A. Yes. Those are all expense account--copies of expense accounts that the candidates have filed in the County Clerk's office.

Q. All right. Those instruments were prepared at your request and certified to by the County Clerk, is that correct?

A. That's correct.

Q. All right. And Exhibit--for brevity I'll go ahead and identify those.
Okay. 10-A and B are the expense reports of Charles Evans in District 32, Place 1 for 1972; Dan Dipert for that same race, is that correct?

A. That's correct.

Q. And it shows an expense statement by Evans as being $22,865.37?

A. That's correct.

Q. And Dipert at $12,529.06?

A. That's correct.

Q. All right. If you will, go ahead and explain 11-A and B, 12-A and B and 13-A and B, giving us the names of the candidates and the amount shown in their expense reports.

A. 11-A and B is W.C. Bud Sherman and John Chidgey. Bud Sherman spent $3,840.49 for Place Three. John Chidgey $3,938.04.

Q. That's District 32, Place Three, for 1972, is that correct?

A. That's correct.

Q. All right.

A. 12-A and B, District 32, Place 8, Chris Miller spent $19,029.60.

Cordell Hull, $1,623.44

I would like to point out that Mr. Hull's records were very hard to check, and I can stand corrected on those. I am not sure whether that is an accurate figure or not. It appears that he received more in contributions than he listed as expenditures.

Q. All right.

A. I did my best to get an accurate figure.

Q. All right. That is District 32?

A. Place 8.

Q. Place 8 for the 1972 election, is that correct?

A. That's correct.

Q. All right. And 13?

A. 13-A and B is District 32, Place 5, Tom Schieffer.

spent $10,400.00

Bobby Webber spent $27,619.42.

Q. All right. That was the 1972 primaries, also, is that correct?

A. That's correct.

Q. All right. In that connection, in Exhibit 10 Charles Evans with 22,000 was the winner of the Democratic Primary and was subsequently elected in the general election, is that correct?

A. That's correct.

Q. And in 11, Bud Sherman was the incumbent and he won the nomination and was elected, is that correct?

A. That's correct.

Q. All right. In 13, that was an open race there was not an incumbent, is that correct?

A. There was not an incumbent in the run-off. There was an incumbent--

Q. All right. In the first primary, Tommy Shannon, the gentleman who had been convicted or something, was eliminated in the first primary--

A. That's correct.

Q. --and it was turned into an open race following the first primary--

A. That's right.

Q. --between Schieffer and Webber. Now, Webber is the same person as Bobby Webber who's been identified as being black?

A. That's correct.

Q. And Schieffer was the man who's brother was a newscaster here in Fort Worth, is that correct?

A. That's correct.

Q. And is currently with CBS in Washington?

A. That's correct.

Q. And Webber spent $27,000.00 but Schieffer won the primary and the general election, is that correct?

A. That's correct.

Q. All right. Now then, I'll ask you whether or not you obtained--if we haven't, we offer Plaintiffs'---

MRS. LEVANTINO: Can I ask a question?

MR. GLADDEN: Sure.

MRS. LEVANTINO: I notice that the certification keeps saying here this is a part of the Democratic Primary election statement of the people. Are you submitting this to say that it's like a cumulative, this is all they spent?

MR. GLADDEN: No.What we're seeking to do, one

is from an economic standpoint. In addition to the total shown on the front page, each candidate files in Tarrant County a list of those persons who made contributions, so you might have 14 pages of contributors but this actually shows as best we could determine the total amount reported to have been received and spent, but it doesn't show which persons gave him the money.

MS. LEVANTINO: So you are offering these to show totals, right?

MR. GLADDEN: Yes. The purpose of these exhibits is to show the total amount each of the candidates reported to have spent in seeking the nomination in each of these races, and that we eliminated just as a matter of avoiding cluttering of the record and what-not the other data which they filed with the County Clerk's office reflecting sources of contributions and that because we just didn't--are not offering them for that purpose.

MS. LEVANTINO: I have no objection.

MR. GLADDEN: All right. Now, that was 10-A and B, 11-A and B, 12-A and B and 13-A and B.

Q. (By Mr. Gladden) I now hand you Plaintiffs Escalante 14-A,B and C and 15-A and B, and ask you if you will identify those?

Rather than you identify them, let me identify them. Those are--I might as well let you come along for the ride. Those are Orange County returns or expense reports from

the Secretary of State's office reflecting the expense report of candidates in Orange County, Texas, is that correct?

A. That's correct.

Q. For District 8?

A. That's right.

Q. Would you tell us what 14-A,B and C reflect?

A. Mr. Peveto (SPELLING) P-e-v-e-t-o spent $4,778.65. Mr. Haynes spent $5,057.67. Mr. Darwin, $1,118.44.

Q. In that connection, Mr. Peveto and Mr. Haynes were seeking the Democratic nomincation, is that correct?

A. That's correct.

Q. And Mr. Darwin was the Republican candidate who apparently had no opponent in the primary but was in the general election.

A. That's right.

Q. And is it your information Mr. Peveto won the Democratic Primary and subsequently the general election?

A. Yes.

Q. All right. Now, as to Plaintiffs' Exhibit 15-A and B, those are also Secretary of State's certified records showing the expense reports from District 42, is that correct?

A. That's correct.

Q. District 42 is composed of all of Parker County and that portion of Tarrant County which is

not included in District 32?

A. That's right.

Q. All right. Would you tell the Court what those records reflect with respect to expenditures of money?

A. Mr. Coody spent $3,220.39. Mr. Upchurch spent $266.00.

Q. Both of those were candidates in the Democratic Primary, is that correct?

A. That's correct.

Q. Mr. Coody won the Democratic nomination?

A. That's right.

Q. And subsequently was elected in the general election?

A. That's right.

MR. GLADDEN: We offer Plaintiffs Escalante Exhibits 14-A,B and C and 15-A and B.

MS. LEVANTINO: No objection.

Q. (By Mr. Gladden) All right.Now then, Mrs. Fisher, I hand you what has been previously identified as Plaintiffs Escalante Exhibit No. 16 and ask you if you can identify that?

A. Yes. These are copies of newspaper clippings from the Fort Worth Star-Telegram.

Q. They are for periods of time during 1972 and 1973 and shortly theretofore, is that correct?

A. That's correct.

Q. And these were compiled and selected by you, were they not?

A. Yes, there were.

Q. They were selected by you for the purpose of showing the general attitude as to racial differences within the District 32 area?

A. That's correct.

Q. And in that connection, you obtained certification from the Record Librarian of the Fort Worth Star-Telegram certifying that these are correct?

A. That's right.

MR. GLADDEN: We offer Plaintiffs Escalante Exhibit 16.

MS. LEVANTINO: We have no objection insofar as these were newspaper articles that appeared in the paper.

MR. GLADDEN: We offer these for the purposes of showing that these newspaper articles did appear in the Fort Worth Star-Telegram which is a daily newspaper of general circulation in the District 32 area and that these articles did, in fact, run in the newspaper on the dates shown therein.

MS. LEVANTINO: No objection.

Q. (By Mr. Gladden) I hand you what's been identified as Plaintiffs' Exhibit 17 and ask you if that's a group of newspaper clippings selected by you from the Fort Worth Press?

A. Yes, it is.

Q. All right. And the Fort Worth Press is a newspaper of general circulation in the District 32 area, is it not?

A. Yes, it is.

Q. And it also is a daily, is it not?

A. Correct.

Q. In fact, the Fort Worth Star-Telegram and the Fort Worth Press are the only two daily newspapers of general circulation in the District 32 area?

A. That's right.

Q. Other than possibly the Dallas Morning News is kind of overlaid to the eastern portion of District 32?

A. (Nods head up and down.)

Q. All right. And those articles were selected by you for the purpose of showing the fact that there are racial differences in the District 32 area, were they not?

A. Yes, that's right.

MR. GLADDEN: All right. We offer Plaintiffs Escalante Exhibit 17 and ask the same stipulation as to the fact that these articles did, in fact, run in the newspapers on the dates therein shown.

MS. LEVANTINO: No objection.

Q. (By Mr. Gladden) Mrs. Fisher, in connection with your testimony, you've been around Tarrant County and Fort Worth for many years and been active.
Do you have an opinion as to whether or not a

candidate otherwise attractive to the community in terms of education, family background and what-not but who was black, do you have an opinion as to whether or not he could get elected in District 32?

A. Yes, I have an opinion, and I do not think that a black could get elected in District 32, regardless of what his qualifications were.

Q. And regardless of who he was running against?

A. Yes, I think regardless of who he's running against unless he was running against someone who had already been convicted of a felony.

Q. Do you share Mr. Sifford's conclusion that if Webber and Shannon had gotten in the run-off that Webber would have won?

A. I'm not sure he would have.

Q. You'll be present and available to testify at the time of this trial, will you not?

A. Yes.

MR. GLADDEN: We pass the witness.

EXAMINATION

BY MR. BONNER:

Q. One or two very quick questions, Mrs. Fischer.
Could you look through your exhibits and give me the spending figures on Webber and Schieffer again?

A. Yes. Mr.Schieffer spent $10,400.00.

Q. Mr. Webben spent twenty seven thousand---

A. Six hundred nineteen dollars and forty two cents.

Q. In other words, Mr. Webber spent almost three times as much as Mr. Schieffer, is that correct?

A. That's correct.

Q. I'm a little unclear as to the reason why you were unable to find any polarization of brown community votes. Would you explain that again?

A. Because there has not been the discrimination in housing for browns that there has been for blacks in this area. The browns are spread more across the District 32 lines, and there's just not that heavy concentration in any given census tract or any given precinct.

Q. What is the heaviest concentration of brown voters that you've found.

A. I would say it's in -- we only have two census tracts that have more than 75 percent brown.
But brownprecincts do not fall within the same lines that those census tracts do.
So when you try to look at election returns, you do not have the same numbers to go by.

Q. Let me see. The brown precincts don't fall within the census tract.
By brown precincts, you mean precincts that have what concentration of brown voters?

A. I doubt that there's any brown precincts that have

more than 75 percent brown in them and possibly only one that has that high a count. And this is only based on my experience from walking door to door in the brown and black precincts.

Q. Excuse me. I'm becoming even more unclear, which is probably my fault, I'm sure it's my fault.
I thought you said there were two census tracts that had 75 percent brown population.

A. Yes, that's right. But there is not a single brown precinct that falls solely within those census tracts.

Q. I see.

A. The precincts overlap into a census tract that has a high white population in them.

Q. Okay. And if you could look through your figures again and tell me what percentage of white votes the black candidates--three black candidates who ran in the Democratic Primary received? I think you said Mr. Gaskin got about 20 percent of the white vote?

A. That's correct, he did get 20 percent.

Q. And you gave figures for Mr. Grays and Mr. Webber, also, I believe.

A. Mr. Grays got 27 percent of the white vote, Mr. Webber got 25 percent of the white vote.

Q. So that its range or effective range, thus far, of

black candidates who run in the Democratic primary for the white votes is 20 to 30 percent?

A. That's correct.

Q. Now, would you give me again the percentages that Mr. Grays and Mr.-well, the gentleman that got in the black precinct.

A. All right. Mr. Grays got 89 percent of the black vote in the black precincts; Mr. Webber 77 percent; and Mr. Gaskin 32 percent.

Q. All right. This is a fairly sharp drop for Mr. Gaskin. Do you have any idea as to why Mr. Gaskin failed to carry the black community?

A. I think primarily because he did not have endorsement of the Precinct Workers Council.
I think another thing that might have had something to do with it, he did not have the labor endorsement.

Q. Fine. Do you have the spending figures on Mr. Gaskin, by the way? I don't recall hearing those.

A. No. Those are not in--I have them in my records but we did not certify those figures.

Q. Okay.

A. We only took the figures that as many places in Tarrant County as we could get in single member districts and we did not find that one necessary.

Q. Mr. Gaskin was running against Mr. Willis, is that correct?

A. That's correct.

Q. Who did have the endorsement of the Labor Council and the Precinct Workers?

A. That's right.

Q. Is that correct?

A. Yes.

Q. And Mr. Willis was an incumbent, is that correct?

A. Yes, he was.

MR. GLADDEN: No.

THE WITNESS: No, he was not an incumbent in this race.

MR. GLADDEN: Excuse me for jumping in and testifying.

THE WITNESS: He was not an incumbent. He held office for about 20 years prior to this but he was not an incumbent.

Q. (By Mr. Bonner) State Senator, as I recall, was he not?

A. He ran for State Senate two years ago and lost so that made him a non-incumbent candidate this year.

Q. But wasn't Mr. Willis at one point a State Senator?

A. Yes, I believe he was.

Q. Back in the late '50's as I recall?

A. Yes.

MR. GEORGE: Excuse me. Off the record.

(off record discussion.)

MR. GEORGE: I have no questions.

MS. LEVANTINO: I have just one question.

EXAMINATION

BY MS. LEVANTINO:

Q. On the Exhibit, I believe it's here Exhibit 9 which is the selected precincts voting returns.

A. Yes.

Q. You were stating before that you were unable to find the Mexican-American polarization because there was not a high density within the census tract that were also within precinct lines.
Did you use the census tracts in determining these 19 black precincts for the Webber and Gaskin races?

A. Yes. There are several precinct--black precincts that fall either exactly within a census tract.
In other words, Precinct 120 is exactly the same as census tract 25.
Precinct 50 falls entirely within census tract 3.
Precinct 106 which I used is entirely within census tract 63.
Precinct 59 and 5 are both within census tract 31. So it was easy to find those in the black precincts.

Q. Okay. And you used that for the Webber and Gaskin race.
Now, in the Grays race in '68, did you use the census figures from the 1960 census at all?

A. No, I didn't. But I had--I relied on the fact that I'd walked those precincts and those are precincts that have been black, predominantly black ever since I've been working in politics in Tarrant County.

Q. When you say you walk them, does that mean in '68 or now, I mean, just recently for this particular --

A. I walked most of these precincts as many as three times last year during the voter registration campaign and the Governor's race.

Q. So it was within the last few years that you have -- or after 1968.

A. I average walking them at least twice a year every election year.

MS. LEVANTINO: Okay. Those are the only questions I have.

RE-EXAMINATION

BY MR. GLADDEN:

Q. Mrs. Fischer, in connection with that, just to clarify things, while you say that you use these census tracts in order to identify black people as shown on the Exhibit 1, when you're talking in terms of those selected precincts, I believe you said you used the census tract for that information.

Actually, you used your knowledge of the existence of black precinct chairmen, and with the exception of the two precincts that you mentioned, precincts 1 and 10, to determine both the Grays and the Gaskin and the Webber race, but you can relate that back to census tracts?

A. Yes, that's what I was saying.

Q. I see. But when you testified about the make-up and using and selecting these particular precincts, you did it on the basis of your knowledge of the make-up and ethnic make-up of these particular precincts is that correct?

A. Yes.

Q. But like you say, in Precinct 120 you can relate that to a specific census tract information?

A. That's correct.

Q. All right. Now, in connection with your awareness and familiarity with these particular precincts, you have identified yourself generally with the liberal community, have you not?

A. Yes.

Q. All right. And your efforts in connection with candidates, the most recent of which was McGovern and Farenthold I guess, and going back into the prior years you worked predominantly with liberal, labor and black precincts, is that correct?

A. That's correct.

Q. And do you have any recollection as to when you first went door to door either in a voter registration campaign or a campaign to get out to vote or in a campaign on behalf of a specific candidate, do you have a recollection in which you actually went into the black community for--

A. It's probably 1963 in the repeal of the poll tax campaign was the first time I did any door-knocking in the black community.

Q. All right. And have you, as you say, been in and out of the black community at least twice a year since then on either registration or get out to vote or campaign for a specific candidate?

A. Yes.

Q. All right. You've likewise been into the low economic areas that are not black?

A. Yes.

Q. You're as familiar with those as you are the black community?

A. Yes.

Q. And the brown community?

A. Yes.

MR. GEORGE: May I interject a couple of short questions here?

MR. GLADDEN: Sure.

EXAMINATION

BY MR. GEORGE:

Q. All your testimony about these exhibits and so-on show economic make-up of the community and voting results is based both upon the census information and other public documents which you've referred to and your experience of having actually walked door to door with a voter list in your hand and identified the people as to their ethnic and racial make-up of the various people you talked to in those precincts, is that correct?

A. Yes; with one exception; I don't carry voter's lists. I carry card file.

Q. You have an actual card file on people who are voters and live there?

A. Yes, sir.

Q. And you know who they are and you can identify them as either black or white or Spanish surname, Mexican-American ancestry?

A. Yes.

MR. GEORGE: That's all I have.

MR. GLADDEN: Let me get one more question in here.

RE-EXAMINATION

BY MR. GLADDEN:

Q. Except for those instances which you had a card file, you had voter registration blanks and applications on many of those instances, did you not?

A. Yes.

Q. In connection with that, in terms of the registration of black and brown people as well as low socio-economic people in Tarrant County, I'll ask you whether you're familiar with and know whether or not there has been some concerted effort on the part of labor, liberal, black, brown community to attempt to increase voter registration in those particular areas?

A. Yes. Since--especially since 1966 there's been a great effort in those communities to increase voter participation-registration.

Q. And in that connection, there has been a substantial increase in registration since the repeal of the poll tax or since the poll tax was declared unconstitutional in the black and brown and low-income communities of Tarrant County, is that not correct?

A. Yes.

MR. GLADDEN: All right. I believe that's all.

MR. BONNER: I have an off thought or two, also.

MR. GLADDEN: All right.

RE-EXAMINATION

BY MR. BONNER:

Q. Mrs. Fischer, you mentioned the disparity, I guess, between blacks and browns in terms of voter participation actually going to the polls and voting.

In your walks through and your efforts to register voters in the community, did you actually talk to the people about political attitudes and so forth?

A. Yes. I don't ask questions; I get some reactions.

Q. Yes. Did people indicate any sort of indifference to the electoral system in general, political process or what, what was the reaction?

A. There are two different reactions and they're quite different in the brown community and the black community. One thing in the brown community we have a language problem so it's much more difficult to get the brown community to register. In the black community I think our primary problem is just the feeling that it doesn't go any good; that they don't have a voice. If I can--I think one experience that I had probably sums it up better than any. I went into a house one day and registered two young women in their 30's. This was in 1968 in Precinct 80. They also registered for their husbands. An older woman came into the room and I offered to register her. And she said, "Register for what?" and I said, "So you can vote." The girl said to her mother, "Mother, you ought to register to vote," and the mother said, "I said, 'for what'?" The woman says, "We're going to elect a president this year. And the woman says, "It doesn't make any difference whether I register or whether

I vote. Those white people are going to do whatever they want to, anyway. And they're going to elect whoever they want to."

Q. This is with reference to the presidential election between Mr. Nixon and Mr. Humphrey, is that right?

A. At that time, we didn't even know who it was. This was in January of '68, prior to the Primary.

Q. All right. Now, you canvassed the community also for State offices, is that right?

A. Yes.

Q. In support of one candidate cr another?

A. That's correct.

Q. Did you find a similar attitude among the people who were registered voters in terms of their enthusiasm for the election or their willingness to go to the polls and actually vote?

A. Yes. Probably not quite as much feeling there, but certainly some; that there is an attitude in, I think, all of our communities but predominantly it's worse in the black and brown community, that they just don't feel that their vote is worth that much.

Q. In other words, is it your opinion that the one explanation of the disparity between blacks and whites in terms of voter turn-out is a feeling of frustration or whatever, helplessness or whatever the word is on the part of the blacks? In other

words, the blacks, there is some feeling in the black community that you perceived that they really had little effective voice in the political affairs, their ballots are ineffective or something along those lines, or am I being too vague, asking too many questions too quickly?

A. No. I certainly think that it is my opinion that they feel like they have very little control over their destiny through the ballot box at this time, and therefore, it's a job of persuasion to get them to participate.

MR. BONNER: Okay. Thank you.

MR. GLADDEN: Excuse me. One question.

RE-EXAMINATION

BY MR. GLADDEN:

Q. In connection with that, you identified these people as being in Precinct 80.

You didn't identify whether they were black or brown in connection with the two ladies and the older lady, too. All three of them were blacks?

A. All three of them were blacks.

MR. GEORGE: No questions.

MR. YORK: We haven't any re or rebuttal.

CHANGES AND/OR CORRECTIONS

PAGE	LINE	REASON

_____
BETTY J. FISCHER

STATE OF TEXAS

COUNTY OF_____

SUBSCRIBED AND SWORN TO BEFORE ME, the undersigned authority, on this_____ day of November, 1973.

_____
Notary Public in and for
___ _____COUNTY, TEXAS

STATE OF TEXAS
COUNTY OF TARRANT

I, Gaylord Sturgess, a Notary Public in and for Tarrant County, Texas, do hereby certify that the facts stated by me in the caption to and within the foregoing deposition are true; that said deposition was taken before me pursuant to the agreement of the parties; that the within named witness was duly sworn to testify the truth; that the questions asked and the answers given were taken by me and subsequently transcribed by me and reduced to typewriting by me or under my supervision, and that the within and foregoing typewritten pages constitute and contain a full, true, complete and correct transcript of all proceedings had.

I further certify that I am neither attorney for, related to nor regularly employed by any of the parties hereto, and further, that I am not a relative or employee of any attorney or counsel employed by the parties hereto, and that I am not in any way financially interested in the outcome of said proceedings.

TO CERTIFY WHICH, Witness my hand and seal at Fort Worth, Tarrant County, Texas, this_____ day of November, 1973.

GAYLORD STURGESS - COURT REPORT
UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF TEXAS
NOTARY PUBLIC IN AND FOR
TARRANT COUNTY, TEXAS.

IN THE UNITED STATES DISTRICT COURT

FOR THE WESTERN DISTRICT OF TEXAS

AUSTIN DIVISION

FRANK ESCALANTE, ET AL	
VS.	NO. A-73-CA-115
MARK WHITE, ET AL	

ORAL DEPOSITION

OF

R. C. JOHNSON

ORAL ANSWERS AND DEPOSITION OF THE witness, R.C. Johnson, in answer to questions propounded to him in the above entitled and numbered cause, taken by the Plaintiffs before Gaylord Sturgess, a Notary Public in and for Tarrant County, Texas, in the Law Offices of Don Gladden,702 Burk Burnett Building, Fort Worth, Texas, on November 6, 1973, pursuant to the hereinafter set out Agreement of counsel:

APPEARANCES

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REPUBLICAN LEGAL COMMITTEE
AND TARRANT COUNTY REPUBLICAN
REDISTRICTING COMMITTEE

STIPULATION

IT IS STIPULATED AND AGREED by the parties to the above entitled and numbered cause, through their attorneys appearing herein, that the Oral Deposition of the within named witness may be taken at this time before Gaylord Sturgess, Official Court Reporter United States District Court for the Northern District of Texas, and a Notary Public in and for Tarrant County, Texas.

IT IS FURTHER STIPULATED AND AGREED that all formalities with reference to the taking and returning of said deposition are hereby waived except as to form of questions or responsiveness of answers; and that the witness may return and sign his deposition before any qualified Notary Public of the State of Texas.

IT IS FURTHER STIPULATED AND AGREED that the questions and answers so propounded and given, together with all other proceedings had, when transcribed by the Court Reporter, may be used in either or all of the cases pending herein by either party hereto, subject to such objections as could be made if the witness were on the stand testifying in person, without the necessity of filing written objections to any questions or answer, and without the necessity of making objections at the time of taking said deposition.

R. C. JOHNSON

called by the Plaintiffs, having first been duly sworn to testify the truth, the whole truth and nothing but the truty, testified as follows, to-wit:

EXAMINATION

BY MR. GLADDEN:

Q. State your name to the Court, please.

A. My name is R.C. Johnson.

Q. All right. Earlier we found out what J. W. Sifford's name was. Would you tell us what your initials are?

A. Raymond Charles.

Q. All right. Mr. Johnson, I'll ask you how long you've lived in the Fort Worth area?

A. Oh, approximately 20 years. I moved here in '53, I think.

Q. You moved to Fort Worth in 1953?

A. Right.

Q. Prior to that time, where did you live?

A. In Marshall in East Texas.

Q. In Marshall, Texas?

A. Yes.

Q. And I'll ask you what business or occupation you're engaged in?

A. I am an employee at General Motors, Arlington.

Q. All right. In that connection, for the record, you're of the Negro or black race, is that correct?

A. Right.

Q. All right. And how long have you been employed with General Motors?

A. Eighteen years.

Q. All right. What year would that put you going to work for General Motors?

A. 1955.

Q. All right. Have you been continuously employed with General Motors during that entire time?

A. Yes, I have.

Q. All right. Mr. Johnson, where do you reside?

A. 1406 East Richmond in Fort Worth.

Q. That's here in Fort Worth?

A. Right.

Q. And do you live at a particular voting precinct?

A. Yes; Precinct 90.

Q. All right. I'll ask you to state whether or not you are officer of the Democratic Party of Tarrant County?

A. Yes. I am Precinct Chairman, Precinct 90.

Q. And in that connection, that also makes you a member of the County Executive Committee, does it not?

A. Yes, it does.

Q. All right. Mr. Johnson, I'll ask you whether or not you belong to any labor union in connection with your employment at General Motors?

A. Yes. I am a member of the United Automobile Workers, Local 276.

Q. All right. I'll ask you also whether or not you're an officer of that local at the present time?

A. Yes, I am.

Q. What are you?

A. Second Vice-President.

Q. And I'll ask you whether or not you've been Trustee of the local on occasion?

A. Yes; four years.

Q. All right. You've been during the 18 years you've been pretty well acquainted with the membership of your union, have you not?

A. Yes, I have.

Q. How much or what size union membership is there in Local 276?

A. Approximately thirty four to thirty five hundred.

Q. Do you have your best estimate as to how many of those people are of ethnic minorities?

A. Around 25 or 30 percent, I should say.

Q. All right. Have you lived in the same general neighborhood as where you live presently during that full 18

year period?

A. Yes.

Q. All right. I'll ask you whether or not after your moving to Fort Worth in about 1953, whether or not you had occasion to become active in politics in--

A. Yes.

Q. 1953 is when you moved here?

A. Yes.

Q. All right. About when did you first become active in politics?

A. Somewhere around 1955 or 1956. I don't remember the exact year, but somewhere in that time.

Q. All right. What caused you or attracted you into the field of politics?

A. Well, there was a gentleman named Lawrence Ware who was active in politics in Precinct 73. And at the time he was deputized to register voters which was paying $1.75 at that time, and I asked him how did we go about being deputized and he taken me to the County Courthouse to be deputized.

Q. All right. In that connection, Mr. Ware was a black person, also, is that not correct?

A. Right.

Q. He was also employed at General Motors?

A. Right.

Q. And lived there in your neighborhood?

A. That's true.

Q. All right. For many years Mr. Ware was the black person in the Tarrant County community that registered more voters than anybody else,is that not correct?

A. That's true; that's true.

Q. All right. And you were a neighbor of his, is that not correct?

A. That's true.

Q. All right. And at that time you lived in Precinct 73, did you not?

A. That's right.

Q. And subsequent to that, you moved into Precinct 90?

A. Right.

Q. And ran for Precinct Chairman?

A. Right.

Q. Do you recall what year you were elected Precinct Chairman?

A. 1960.

Q. All right. Had you been Precinct Chairman of Precinct 90 continuously since 1960?

A. Yes, I have.

Q. All right. In addition to that, I'll ask you whether or not you're a member of the Community Action Agency Board?

A. Yes, sir.

Q. How long have you been a member of the Community Action Agency Board?

A. This is my second term there. I was elected in '69, I believe it was.

Q. In that connection, the Community Action Agency, when we talk about that, that is the agency through which Federal O.E.O. funds are distributed and spent in the community, is that correct?

A. That's true.

Q. And the structure of the C.A.A. Board is composed of certain representatives who are elected from the target areas or the low income areas themselves, is that correct?

A. That's right.

Q. Actually, elections are held in the community for these target area representatives?

A. Right.

Q. And you say you have just begun your second term. Were you appointed by a public official or were you elected in the target area?

A. I was elected.

Q. You're an elected target area representative on the Community Action Agency Board?

A. Right, yes.

Q. All right. Beginning 1953 or in about 1955 or

'56, I'll ask you whether or not you then became aware of and cognizant of various candidates for the Legislature in the Democratic Primary?

A. Yes.

Q. I'll ask you whether or not you're familiar with whether the ethnic make-up of candidates for the Legislature from, say, 1956 up to the present time?

A. Yes.

Q. Do you know how many of those candidates in the Democratic Primary were black?

A. Well, to my knowledge, here recently we've had three.

Q. All right. And that was in 1968 Charles Grays?

A. Yes.

Q. And in 1972 Jim Gaskin?

A. Jim Gaskin.

Q. And Bobby Webber?

A. Yes.

Q. All right. Do you know of any other candidate or black person that has sought the Democratic nomination for the Legislature in Tarrant County?

A. No.

Q. All right. Now then, I'll ask you whether or not you're also president of the Tarrant County Precinct Workers Council?

A. Yes, sir.

Q. Now, would you describe to the Court what the Tarrant County Precinct Workers Council is?

A. The Tarrant County Precinct Workers Council is an organization that basically is made up of black precinct chairmans and workers within each precinct.

Q. All right. And do you have in your own personal knowledge are you aware as to when the Precinct Workers Council was first organized?

A. It was organized sometime during 1953, I believe.

Q. All right. And it has remained in existence continuously since that time?

A. Yes.

Q. All right. And when did you become associated with it?

A. I became a regular member and regular in attendance during 1960. I became more active, I should say, in 1960, after I was elected Precinct Chairman.

Q. Actually, the Precinct Workers Council during the 50's comprised in terms of activity primarily the elected Democratic Precinct Chairmen who were black, is that correct?

A. That's true.

Q. Now, the Precinct Workers Council, though it is predominantly black, it actually has had some white membership

from time to time, is that correct?

A. Yes.

Q. Actually, liberal whites --

A. Yes.

Q. Okay. So during the 50's the leadership or the basic structure of the Precinct Workers Council was communication among the black precinct chairmen?

A. That's right.

Q. And I'll ask you whether or not you were aware that the Princinct Workers Council made recommendations and endorsement or supported either in a formal manner or informally candidates for the Legislature?

A. Yes.

Q. All right. Now then, up until 1958 the Precinct Workers Council of necessity were compelled to support white candidates?

A. Well, that's true.

Q. In every instance, is that correct?

A. That's true.

Q. Beginning in 1960, I'll ask you whether or not you, by reason of being a precinct chairman and taking a greater participation in the Precinct Workers Council, were aware of the slate-making process and the procedures that they followed as to how they ended up supporting particular candidates?

A. Yes.

Q. Would you tell the Court what the procedure was, whether it was formal, informal or the manner in which the Precinct Workers Council arrived at the support of any candidate?

A. Well, the Council during that time were mainly interested in candidates that were, how should I say, that had their interest more at heart, I should say. They would discuss candidates and try to arrive at a candidate that, as I said, that was probably concerned about the welfare of the black people in general.

Q. All right. In that connection, you were aware of, were you not, and if not, please tell me, the fact that the labor organizations in Tarrant County were also screening or considering candidates for the Legislative races?

A. That's true, that's true.

Q. All right. You were a member of the United Auto Workers during that period of time, were you not?

A. That's right.

Q. Were you as active with the UAW as you were the Precinct Workers Council?

A. That's true. I was real active with UAW.

Q. And consequently, were aware of their slate-making procedures and their selection procedures?

A. Right.

Q. Was there some kind of a formal

or informal effort on the part of the black Precinct Workers Council to work with or consider the same candidates that labor organizations in Tarrant County did?

A. Oh, yes, yes.

Q. Was it a formal type thing or was it just a sort of an understood informal type arrangement?

A. Well, at times there were formal arrangements, because my being involved with labor we always taken their advice or--

Q. Traditionally, the black community has voted with the labor community?

A. Right.

Q. Because you have the same common interests, is that correct?

A. Right.

Q. And there were times when there were expressed endorsements, other times it was just sort of understood that your strength was your coalition, is that correct?

A. That's true.

Q. All right. By the late 60's, had the Precinct Workers Council begun a procedure of actually screening and interviewing candidates at that time, if you recall?

A. Yes, we did.

Q. All right. Did you screen them separately or did you screen them along with the labor community or I'm thinking now prior to 1972?

A. Yes. We--at times we screened them separately and at times here recently we formed what was known as a coalition of blacks and PASO and labor.

Q. All right. Now then, from time to time the United Auto Workers was affiliated with the Tarrant County Central Labor Council?

A. Yes, that's true.

Q. I'll ask you whether or not you were ever a delegate from Local 276 to the Central Labor Council?

A. No, I was not a delegate but I did attend those meetings regularly.

Q. All right. I'll ask you whether or not any black from 276 was ever a delegate to the Central Labor Council?

A. No.

Q. All right. Now then, there is an organization of UAW since its withdrawal from the Central Labor Council known as what, CAP?

A. CAP.

Q. What does CAP stand for?

A. Community Action Program, I believe that's the way it is.

Q. All right. That's the political arm of the UAW?

A. Right, right.

Q. Have you ever been a delegate to it?

A. No, I have not.

Q. All right. It participates in the selection procedure now, does it not?

A. Right.

Q. Do you know whether or not a black has ever been a delegate to it from your local?

A. No.

Q. No there has not been?

A. Yes, sir.

Q. All right. Now, back to 1968 when Charles Grays was a candidate for the Legislature; do you know whether or not there was any express recruitment of Grays to run by anybody?

A. No, I don't

Q. Do you know whether or not there was any effort made on the part of anybody to direct him into any particular race?

A. No. Well, not really.

Q. All right. You're not aware of any prior committments by any of the labor organizations or Precinct Workers prior to the time that he filed?

A. (Shakes head from side to side.)

Q. You'll have to speak up. He may not have an answer.

A. No. I'll say no.

Q. All right. After his announcement --now, Grays was a member of the CWA?

A. Yes.

Q. Still is, I suppose?

A. Yes.

Q. That's Communications Workers of America?

A. Right.

Q. That's the union that represents the telephone employees?

A. That's right.

Q. All right. After he announced in 1968--you said you'd never been a member of the Central Labor Council or a delegate to the Central Labor Council, so you didn't participate in their endorsement of him as such, is that correct?

A, That's true.

Q. Did the Precinct Workers Council make endorsements in 1968?

A. Yes. They endorsed candidates in that particular year.

Q. All right. And did they endorse Charles Grays?

A. Yes.

Q. You're aware, also that the Central Labor Council endorsed Charles Grays?

A. That's correct.

Q. And that the other labor organizations in the community did endorse Charles Grays?

A. Yes.

Q. And Charles Grays fairly well got the black community vote, did he not?

A. Yes.

Q. As a matter of fact, he got about 88 percent of the black community vote?

A. That's right.

Q. Now, in the ethinc make-up of Tarrant County and particularly the black community, the precincts where there are black precinct chairmen are almost 100 percent black, are they not?

A. That's true.

Q. Your precinct is almost 100 percent black, is it not?

A. Yes, it is.

Q. And in those precincts where there is a high density of black population but not 100 percent, they're also in the same geographic location just right next to black precincts, is that not correct?

A. That's true.

Q. There is no widespread black dissemination in the community in terms of housing.

A. No.

Q. All right. Now, directing your attention to 1972, there was a joint screening process between the Precinct Workers Council, the political association of Spanish-Speaking

organizations, the United Auto Workers, the Central Labor Council and the Teamsters, was there not?

A. Yes.

Q. Did you participate in that screening process?

A. Yes, I did.

Q. As I understand it, it's been previously testified, if you'll confirm this, that there was no committment made by any organization going into this screening process that you were going to be bound by it but you were just going to jointly interview the candidates and then make an effort to support candidates at that point?

A. That's true.

Q. All right. Out of that screening procedure, I'll ask you whether or not each of those organizations ended up supporting the same slate of candidates?

A. Yes.

Q. All right. And I believe you previously testified that Jim Gaskin and Bobby Webber both were candidates in 1972 and were on the Democratic Party ballot--

A. Yes.

Q. --for the Primary for which this screening procedure was set up?

A. That's true.

Q. All right. I'll ask you whether or not this joint coalition endorsed either Webber or Gaskin?

A Endorsed Bobby Webber.

Q All right. And did not endorse Gaskin?

A Did not endorse Gaskin.

Q All right. And prior to 1972, following 1968 and Grays' loss, were you familiar with or aware of any blacks that were inclined to or thought they might like to run for the Legislature?

A Well, there was one guy that was named Williams, I can't recall what his first name is, he was thinking of it, somebody talked to him about it.

Q I see. But he didn't run?

A No.

Q Do you know Albert Mitchell?

A Yes.

Q All right. Albert Mitchell is a black out of the Machinists Union, is that correct?

A That's right.

Q I'll ask you, this is in 1969 or '70, is that correct?

A Right.

Q Following the '68 election?

A Right.

Q I'll ask you whether or not Albert Mitchell approached you and talked to you about running?

A Yes, he did. He talked with me about it.

Q Did you give him any encouragement? What did you say to him in response to his telling you he was thinking about running for the Legislature?

A Well, I tried to persuade him not to, really.

Q Why did you try to persuade him not to?

A Because I felt that he couldn't win.

Q All right. Did he approach you in that connection because you were president of the Precinct Workers Council and had some influence in the black community --

A Yes.

Q -- as far as voting is concerned?

A Yes.

Q All right. Do you know of any other blacks that approached you or talked to you about the possibility of running for the Legislature in 1970?

A No. I had talked with Richard Linton about it.

Q All right. Now then, in 1972, or in late '71 and early '72, I'll ask you to state whether or not you entertained the idea of whether or not you might run for the Legislature?

A Yes, I did.

Q And in that connection, I'll ask you what the first step was when you first started thinking about running for the Legislature, what did you do?

Q Well, I talked with various people that I met, had contact with, to solicit their support both financially and

any other way, you know, that I could get it.

Q All right. And what sort of a reaction did you get when you talked to those people?

A Well, they had sympathy for me but they just felt, you know, that I couldn't win.

Q Did they tell you why they didn't think you could win?

A Yes. They just felt that I couldn't get the support -- as a candidate running through county-wide I just couldn't get the support of the white race that I would have to have in order to win.

Q Did they tell you that because you were black that they felt like you couldn't win?

A That's very true.

Q Now, one of the people that you talked to was Mr. Jim Tharnel, is that correct?

A That's right.

Q And he's president of your local union?

A That's true.

Q Well, did he discourage you from running?

A Well, he sure did.

Q Did he just tell you that he didn't think you could win?

A That's true. He didn't think I would win. I talked with Garland Ham, also.

Q Garland Ham is the District 5 United Auto Worker political representative for about a five or six-State area, is that not correct?

A That's true.

Q Formerly out of Local 276 but now I guess he works out of St. Louis for the 5-State area?

A Right.

Q All right. Did Garland encourage you or discourage you?

A He discouraged me, really.

Q Was this again on -- what was his reasons for discouraging you, what did he tell you?

A Well, as I stated, he just felt that I couldn't get, you know, the votes to win because of the situation.

Q Because of your color?

A Yes.

Q All right. Did you go see J. W. Sifford or talk to J. W. Sifford?

A Well, I didn't talk to J. W. directly, but I talked with some people from his --

Q From the Central Labor Council?

A Right.

Q All right. Did they encourage or discourage you?

A They discouraged me.

Q All right. Did they, in fact, tell you they had a

white candidate that they felt had a better chance of winning than you?

A Well, that was it, that's true.

Q Did they tell you that?

A Yes, they told me that.

Q All right.

A As a matter of fact, when I first approached them, that's what they told me, you know, "We have a candidate that you know can win, you know, that we believe can win."

Q All right. They were talking about Charles Evans, is that correct?

A Charles Evans, right.

Q You were making inquiries about running specifically in the race that Evans was a candidate in?

A That's true, that's right.

Q And that was an open race, that was not an incumbent?

A That's true. That was an open race, it wasn't an incumbent.

Q All right. First of all, you're familiar with and have been familiar with the existence of racial differences in the Tarrant County community since you've lived here, have you not?

A Yes.

Q You're aware of in the 50's the housing conflicts

or publicity where black people moved into white communities?

A Right.

Q The swimming pool problems where blacks were going in and swimming in white swimming pools?

A Yes.

Q And most recently, has there been any conflicts or differences aired as to attitudes towards blacks and whites in Tarrant County or in the area?

A In the school integration problem, you know.

Q There has been a kind of continuing school integration problem since the mid-fifties since you got here?

A Right.

Q I guess it was going when you got here and it's still going?

A That's true.

Q The most recent was in 1972 when the Court entered a new order on busing, is that correct?

A That's true.

Q And there's been considerable publicity about it?

A Right.

Q And there's been polarization of views as to those who favored busing and those who did not?

A That's true.

Q And the news media have given a fairly accurate account of the degree of intensity of feelings with respect

to those who favor busing and those who don't is that not correct?

A That's true.

Q Do you have an opinion, based on your experience and your observations and activities as an elected delegate to the Community Action Agency from the black area and black precinct chairman and as a person who has participated in the United Auto Workers' political activities, as to whether or not a black can be elected to the Legislature in District 32 at the present time?

A No, I don't.

Q Do you have an opinion?

A Oh, I don't think that one could.

Q All right. You do have an opinion and your opinion is that one could not?

A Right.

Q Is this based upon your awareness of the votes that Webber got, Gaskin got and Grays got?

A Yes.

Q Is it also based on your awareness of the general demeanor and attitude of the community as a whole?

A That's true.

Q In that connection, Webber spent a bunch of money, didn't he?

A Yes, he did.

Q And Grays didn't spend a great deal, did he?

A No.

Q And they both got about the same percentage of white votes, did they not?

A That's true.

Q In connection with the election of candidates to the Democratic nomination, you're familiar with whether or not Republicans have ever elected anybody in Tarrant County, are you not, in the Legislative races?

A Yes.

Q They never have, have they?

A No.

Q The Democratic nominee has always won the general election?

A That's true.

Q All right. In connection with representation, I ask you whether or not in your opinion it would be in the best interest of the black community to have single member districts in Tarrant County?

A Definitely.

Q All right. I'll ask you whether or not you feel like the Tarrant County delegation has over the years been sympathetic to or not properly sympathetic to the needs and the interests of the black community?

A I don't think so. Even though we have supported

some candidates, but all the time that they have not been as sympathetic to our problems as we would liked for them to have been.

Q All right. After the Precinct Workers Council and the labor organizations have made their endorsements, they circulate information into the communities by various methods, is that right?

A That's true.

Q The Precinct Workers has on occasion made mailings into black precincts?

A Yes.

Q And by black precincts we're referring to those where you have black precinct chairmen or where it's almost 100 percent black, is that correct?

A That's true.

Q In addition to that, since they are geographically situated together, you've gone and utilized the door-to-door type campaign?

A That's true.

Q All right. I'll hand you what has previously been identified as Plaintiffs Escalante Exhibit 18-I and ask you if that is a slate card or a door-hanger which was put out and distributed by the Tarrant County Precinct Workers Council?

A Yes.

Q That is for the second primary of 1972, is that

correct?

A Yes, that's true.

Q That shows the candidate that your organization was supporting?

A That's right.

Q And it is identified as "Precinct Workers Council" by you as president, is that correct?

A Yes.

Q In addition to that, there's another slate card there that has the Precinct Workers Council printed on it.

Was that also circulated by the Precinct Workers Council in the black community?

A Yes.

Q This has been previously identified as Plaintiff Escalante's, et al, Exhibit 18-A. And that lists the candidates that your organization were supporting, is that correct?

A Yes.

Q Now, in addition to that, on the back of that card you see an inked in identification, do you not?

A Yes.

Q All right. The name "A. I. Harris" is written on that, is that not correct?

A Yes.

Q Now, that name was not printed on but was put on there, I assume, as identification. A. I. Harris is the

elected precinct chairman of Precinct 5, is she not?

A Yes. At that time she was president of the organization?

Q Oh, I see. She was?

A Yes.

Q She has been president of the [illegible] Workers Council on occasion?

A Yes.

Q And that was distributed back in 1966?

A Yes.

Q For the Democratic Primary of that year?

A Yes.

MR. GLADDEN: I believe that's all.

EXAMINATION

BY MR. BONNER:

Q Okay. I have a few questions.

Mr. Johnson, you've outlined your political activities. Are you also involved in other groups in the black community, civil groups, for example?

A I -- such as church?

Q Church, yes. Are you affiliated with the church?

A Yes.

Q What church?

A St. James Baptist church.

Q Is that predominantly black congregation?

A Yes, it is.

Q In your day-to-day life you come into contact with a wide variety of people, is that correct?

A Yes.

Q You have occasions to converse with them about political matters and so forth?

A Yes.

Q And as a result of these conversations you've had, would you say that you are qualified to state to the Court what the general attitudes of the black community are with respect to political matters?

A Well, their attitude is one that says that they seem to feel at times that they're not adequately represented.

Q Okay. I was going to get to that.

But, in other words, you can give an opinion as to what the general attitude of the community is on any particular political issue under discussion, do you think?

A I think so, yes.

Q Okay. What, in your opinion, is the general community consensus as to the chances of a black person being elected under the present multi-member system to the State Legislature?

A They feel that it can't be done.

Q The community as a whole feels that a black person could not be elected to the State Legislature under the present

system?

A That's true.

Q Do you think the community has, in general again, some idea as to why a black person can't be elected?

A Well, because we only have approximately 20 or 25 percent black people here in Tarrant County. I think it's 20 percent, approximately 20 percent. And running a State or County-wide race, it's almost an impossibility.

Q Would you say that is because it's felt that a black candidate could not get a sufficient number of white votes to win?

A It has been proved in the past.

Q And a black community is too small to elect a black person of its own, is that right?

A That's right.

MR. BONNER: That's all.

EXAMINATION

BY MR. GEORGE:

Q I have a couple of questions. Excuse me.

I was out of the room when you came in, Mr. Johnson. My name is Jim George and I represent the Republican Plaintiffs in this lawsuit.

Are you familiar with a slate-making organization or informal group of businessmen that sometime is referred to as the Seventh Street group?

A Yes. I've heard a lot of talk about them.

MR. YORK: Ever hear anything good?

Q (By Mr. George) You testified, I believe, that you were both -- that you are now a Precinct Chairman?

A Yes.

Q In the Democratic Party?

A Yes.

Q Democratic Executive Committee?

A Yes. I'm on the Democratic Executive Committee.

Q And you were President of this group, Democratic Precinct Workers Council?

A Yes.

Q And have been active in that organization?

A Yes.

Q Have you personally ever been approached by a member or representative of this slate-making group, Seventh Street group, for a shorthand phrase, about your ideas about who should be nominated by the Democratic Party to the State Legislature?

A (Shakes head from side to side.)

Q Your answer is no?

A No.

Q Do these people who constitute this group of business leaders who put together the Seventh Street group slate regularly consult with any other black Precinct Chairman

workers about who they believe, to your knowledge?

A Not to my knowledge.

Q So even though you're an active Democratic worker, they have never contacted you?

A No, not the Seventh Street bunch.

Q Do they ever ask, based upon your knowledge of the black community and the factors you work within the community and have knowledge of the black community, ever asked you or any or to your knowledge any of the other people that work within the black community about their views on political matters?

A No. I don't recall -- not within our organization. Now, they might confer with some people outside of my organization that I don't have any knowledge of.

Q And am I correct that this Seventh Street group fields candidates in the Democratic Primary as part of the Democratic Party process?

A Well, this is what I've heard and observed.

Q Not to belabor, it, but finally, although they are part of the Democratic Party, they do not consult the black community to your knowledge?

A Not our organization.

Q Or any other Precinct Chairman?

A Not to my knowledge, no other Precinct Chairman.

Q Are there any blacks on the Democratic Executive

Committee who are not Precinct Chairmen?

A Not to my knowledge.

MR. GEORGE: That's all I have.

EXAMINATION

BY MS. LEVANTINO:

Q Mr. Johnson, you've worked with the Precinct Workers Council and also the AF of L and the various labor groups and you've observed from your testimony here both their methods of slating and screening candidates over the past few years, is that correct?

A Yes.

Q And it's my understanding that the labor people do do a certain amount of recruiting of candidates prior to -- in other words, talking to people that they might like to run that might represent their interests, is that accurate, in your opinion?

A Well, they have probably, as I testified a moment ago, I do know one, Charlie Evans, he was in the race. But --

Q Are you saying that he was encouraged by labor to enter that race because --

A Well, I don't know specifically whether he was encouraged by labor, but I do know when I approached them concerning myself that they said that he was in the race and that he probably could win.

Now, whether they encouraged him to do this, I just

couldn't say specifically that they did.

Q And this was prior to the filing deadline, of course?

A Right.

Q All right. Does the Precinct Workers Council do any recruiting in addition to slating?

A Well, no. Because, really, our effort has been that if we, you know, within our own precincts we just felt that it was more or less a waste of time to actually try to recruit somebody because it has been proven that we couldn't get enough votes and they didn't have the money either to make a county-wide race.

Q So you don't or the Precinct Workers Council doesn't really try and recruit blacks or whites that might represent their --

A No. In the screen process that the other person has filed for a position, we screen the candidates that has filed and try to select the one that, as I stated that is more favorably toward the views -- our views that would be -- that would support as much as possible the views of our people.

Q Okay. Do you generally do endorsements for all of the races, both Legislative, state-wide, Senatorial, local, county, judicial?

A Yes, we do in some instances, yes.

Q Can I ask you something about these slate cards

that may have been explained this morning?

On both 18-A and 18-I, specifically 18-I, there are -- does this represent the only races that were being voted on, on June 3rd of 1972? In other words, this is all that appeared? Obviously, there would be two names on there.

A Well, I don't recall. I don't think these were the only ones that were running, I don't think so.

Q So in other words, there are some races on there that are excluded from the endorsement?

A I think perhaps so.

Q But generally you would cover all the races in your endorsements?

A As I stated, we try to -- we endorse people whom we feel that we can get support from, you know.

It wouldn't do us too much good to support somebody that, you know, that's going to do what they want to do anyway.

Q In other words, in determining what races you're going to get involved in, you're more concerned with just endorsing those people that would vote as you would hope they would to represent your interests rather than to have some guidance to someone in each race?

A Well, I think this is what this is.

Q Okay. So you did in '72 endorse Charles Evans, of course, Bobby Webber, for the State Legislature and back in

'66 Don Gladden, David Finney, Gordon Gray, Joe Shannon, Jr., Dean Butler, or Larry Meeker, either one, of which some of those people did succeed in being finally elected is that true?

A Yes.

Q. Okay. You mentioned in response to Mr. Gladden's question a minute ago that you have endorsed some of these people that are presently within the Legislative delegation and some people that have been in the delegation in the past.

Have you been generally satisfied with their representation of your interests that you had hoped to encourage by your endorsement?

A. I would have to say no, to some we have not been entirely satisfied.

Q. Can you give me some specifics?

MR. YORK: anybody in this room, for instance?

MR. GLADDEN. Go ahead and tell him how good I was.

THE WITNESS: You said specifics?

Q (By Ms. Levantino) Like on specific issues and votes. We'll just take this Legislative Session and that delegation you've had this last time.

A Well, I'm trying to -- as you know, when you talk about the minimum wage and taxes and all, this tends to hurt poor people most, and sometimes in a delegation we have people who will vote against the minimum wage bill. We feel this is something that we must have because of the price of everything is

going up and where the poor person is out here laboring trying to make a living and here you have a Representative here that voted against getting an increase in pay in order to keep up with the rising prices of everything.

Q. Okay. Any other area besides minimum wage that you can, a specific bill?

A. I'm trying to think here. I mentioned taxes. Of course, you know, that's real important with, you know, poor people, taxes.

Q. Do you think taxes are unique or concern about rising taxes is unique to either the poor or the black community in this State?

A I didn't

Q. Do you think that concern about rising taxes is unique to either the poor or the black in this State?

A Well, sure.

Q As opposed to the white or middle-class?

A Well, it might not affect them as much because they're making more money.

Q Okay. Any other issues?

A I'm sorry. At this time I can't -- I'm sure there are more but I can't recall at this time because-- I can't think of any at this time but I'm sure there are more.

Q. All right. Have you been generally satisfied with the people who you specifically or one of the persons that you

specifically endorsed on the January 3rd ballot, Charles Evans, who I believe is the only one that was successful of the two you endorsed, with his voting record on the issues?

A No. Personally, I'm not, no.

Q Okay. Does your group do a tally at the end of a session evaluating not only the delegation as a whole's representation of your interests but also specifically those for whom you gave support?

A Well, we keep check on them. We try to do this by keeping up with the issues that are before the Legislature, and we talk about these things and try to keep tab on just how a person voted so we'll know when the next time comes around if they want our endorsement whether we should give it to them or not.

Q. Okay. Now, the Tarrant County Legislative Delegation does have a number of incumbents in it now that have served there for a number of years.

Are there any of those incumbents that you endorsed or that your group endorsed at one time and then decided not to endorse in their subsequent bid for re-election?

A. I'm sure they have but I can't recall just who they were at this particular time.

MS. LEVANTINO: Okay. That's all. Thank you.

MR. YORK: I'd still like to find out how Mr. Gladden did when he was running.

(Off record discussion)

RE-EXAMINATION

BY MR. GLADDEN:

Q. Mr. Johnson, in connection with the process of candidate selection, I believe it's your testimony that the Precinct Workers Council has never recruited candidates for the Legislature, is that correct?

A. Yes.

Q. All right. As a matter of fact, if you went out and tried to attract somebody into the Legislature offering only the support of the Precinct Workers Council, that would be sort of a futile effort, would it not?

A. That's true.

Q. If the 19 black precincts, or 17 black precinct chairmen collectively went to a black person and said, "We'd like to have you run for the Legislature and if you run for the Legislature we, the Precinct Workers Council and the 17 black members of the Tarrant County Democratic Executive Committee, offer you our total support," would that really have much weight?

A. No.

Q. Would that be very persuasive to an aware young black person who might offer himself as a candidate for the Legislature?

A. No.

Q. All right. Does the Tarrant County Precinct-- if you'll speak up so he can get it.

A. All right, I will.

Q. Does the Tarrant County Precinct Workers Council have a great deal of money to offer a prospective or a recruited candidate for the Legislature?

A. No.

Q. All right. In that connection, Bobby Webber entered the race without endorsement of the Precinct Workers Council, is that correct, when he first got in he didn't have their support?

A. That's true, that's true.

Q. All right. And the money he spent, the $27,000.00 he spent came from some place other than the Precinct Workers Council?

A. That's right.

Q. If I'm going to testify, Id like to get my answers out before you say yes.

Anyway, Bobby Webber is in the funeral and nursing home business, is that not correct?

A. Yes.

Q. In that connection, he is wealthier than most blacks?

A. Yes.

Q. And he's spent a great deal of his own money in the

A. Yes, he did.

Q. And also any other monies that he got was primarily outside the black community, was it not?

A. Yes.

Q. All right. Now, in connection with the issues and your awareness in keeping up with the people that you elect to the Legislature, you rely a great deal on what information you get back through the labor union records, do you not?

A. That's true.

Q. The Precinct Workers Council do not maintain a paid lobbyist or are not affiliated with anybody in Austin who sits down there and watches how your members vote, are they?

A. No.

Q. All right. The Labor Councils are?

A. Yes, sir.

Q. So when issues of economic interest to working people are presented, the Labor Council acquaints you with how your representatives vote?

A. Well, that's true, yes.

Q. All right. When you made reference to taxes awhile ago, you're satisfied everybody is concerned about taxes?

A. Right.

Q. But the nature and the type of taxes are of importance to the black community, are they not?

A. Well, that's true.

Q. And items such as sales taxes which are regressive, as I say the manner in which it hits the various economic levels is of importance, is it not?

A. That's true.

Q. And you keep up through the labor Councils with how your elected representatives vote on matters such as sales taxes versus corporate income taxes?

A. Right.

Q. And it's based on this information that you coalesce with them in supporting candidates?

A. Right, that's true.

Q. All right. Now, to the question about, when I was in the Legislature, did you have any quarrel with the way-- with my representation?

A. No, I would say that I think that you perhaps are the only candidate that we endorsed each time, that we decided to.

Q. Do you think as to single member districts, do you think that it would be just as well or maybe a little bit better if you had a black representative down there to vote for issues of your community interests rather than to have to rely upon the goodness of a white candidate that got elected state--district wide?

A. Sure, it would be best.

Q. Do you feel like a person that was elected from

your community and of the socio-economic background that could attract the black community's votes would be more calculated to be responsive to and aware of your needs than somebody who lived over in Eastern Hills--

A. Yes.

Q. -- that might not cast a vote your direction?

A. Yes.

MS. LEVANTINO: Two questions.

MR. GLADDEN: Okay, I'll quit and you can have it.

MS. LEVANTINO: I'm sorry. Were you through?

MR. GLADDEN: I'm through

RE-EXAMINATION

BY MS. LEVANTINO:

Q. Really, this is just kind of a point of inquiry. When I was talking to you a minute ago I was asking you if there were other races in here. Were there other slate cards that y'all have issued, too, or does this represent all the slate cards you've ever issued?

A. Just these right here?

Q. Yes.

A. I'm sure there's -- we have issued more slate cards. Probably--I tried to find some. I'm sure we have.

Q. Would it be at all possible to get ahold of some of the other slate cards?

MR. GLADDEN: I think we could. First of all,

most of the precinct chairmen sometimes keep files, do they not, and what-not?

THE WITNESS: Yes.

MR. GLADDEN: You weren't asked until last night to locate some?

THE WITNESS: I'm sure I have some but--

MR. GLADDEN: Okay. If you would locate those and furnish them to the Court Reporter, would you be willing to do that?

THE WITNESS: Sure.

MR. GLADDEN: All right. And see if you can get as many for as many years as you can?

THE WITNESS: I sure will.

Q. (By Ms. Levantino) And would you also--you weren't here this morning, but in the case--on some of these slate cards it's a little difficult to tell exactly what year it's for. I mean, if you would, just mark like "1972 Democratic Primary" or something like that.

MR. COLLINS: It is on the exhibit list.

MS. LEVANTINO: I was just talking about the ones that he's bringing in.

Q. (By Ms. Levantino) I just have one other question that I missed a minute ago.

You said that you had talked with Mr. Mitchell or he has asked you if you thought he would have any chance to win.

Have you ever talked to anyone else about not--has anyone else ever approached you about whether or not they should run for a Legislative race, white or black?

A. I think I mentioned Bobby Williams. When I said Bobby, I don't know what his first name is, but Williams, and I talked with Richard Linton, but this was just casually talking.

But Mitchelll was really wanting to get into the race.

Q. There was really never anyone else that you, in semi or relatively serious fashion advised as to whether or not they should get into a race?

A. No.

Q. At any level, even outside of--

A. No.

MS. LEVANTINO: Okay. That's all

RE-EXAMINATION

By Mr. Bonner:

Q. I have a couple of short questions.

Mr. Johnson, based on your political awareness, do you think a Legislator represents his community by simply casting votes on issues that are presented to the Chamber or do you think a Legislator who represents his community might be expected to bring up certain issues, to draft and present bills to the Legislature?

A Yes, sir. I think that's part of -- I mentioned voting as, you know, one way of getting something passed, but I definitely think that he ought to be -- write bills, bring up bills, introduce bills just as anybody else.

Q And you think that a good Legislator, one who effectively represents his community, in other words doesn't merely sit back and vote yea or nay on a matter but occasionally will present or introduce a bill that is, you know, of interest to or benefits his community?

A Well, certainly.

Q In addition to, I think you mentioned taxes and minimum wage, would you think that housing discrimination is a matter that is of particular interest to the black community?

A Why, certainly. I couldn't, you know -- those were the two that came to my mind.

Q No. That's all right. I know you can't think of everything. I'm just simply throwing out a couple of things.

Would you think that employment discrimination is an issue that would be of particular interest in the black community?

A Well, I'm sure it would be, sure.

Q You know, more interest to the black community than to the community at large?

A Right.

Q Do you recall whether or not any member of the

Tarrant County delegation has ever introduced a bill dealing with housing discrimination?

A Not to my recollection, not that I know of.

Q All right. How about employment discrimination?

A I can't recall.

Q In addition to those two particular areas of interest, would you say that the areas of prison reform might be of some interest to the black community?

A I am sure.

Q Since a large percentage of the inmate population is from the black community?

A I am sure.

Q And would you say the welfare reform might also be of interest to the black community?

A I believe so.

Q Based on your familiarity with the voting records of the Tarrant County delegations in the past, well, during your stay here, how would you rate them as voting on the issues of prison reform and welfare reform when they have come up?

A I would have to rate it very low because I don't know any that really has voted for anything of that nature.

Q Okay. One last point, Mr. Johnson: what is the approximate voter registration in your precinct?

A In my precinct?

Q Yes. How many registered --

A Twenty one hundred and ninety three.

Q What is the largest number you were ever able to turn out for an election?

A I think that was probably eighteen, seventeen, eighteen hundred in the presidential election.

Q During the presidential election. How about for Legislative election, Democratic Primary?

A It's not really good during just a regular Legislature.

Q Could you give us a ball park figure?

A Oh, probably five or six hundred.

Q Approximately 25 percent?

A Yes.

Q How do you account for that low voter turnout in your precinct?

A Well, let me say that most black people feel that presidential elections are the only important elections to them because of the fact that your State Representatives they feel that is not going to help them very much, you know, as it stands -- as it is now. They just feel like maybe it's a waste of time to even --

Q Would you say that they feel that the people sent to the Legislature are not going to help them or --

A Well, I would say this probably is the general feeling among them.

Like I say, they feel the presidential election is the most important election and straight representatives are -- doesn't --

Q They attach no importance?

A Right.

Q Do you think that's based to some extent on the performance that they have seen out of the State Legislators or what?

A Well, it would appear to me that it's because of the fact that some of the State Legislators have not been -- have not voted in their best interests, has not represented them in the way that they perhaps wanted them to.

Q By dealing with some of the issues, some of the few issues that we just have sort of gone through here?

A Right.

MR. BONNER: Thank you, Mr. Johnson.

RE-EXAMINATION

BY MR. GLADDEN:

Q First of all, was it Mr. Burt Williams, perhaps, that approached you about the prospect of running for the Legislature, or do you know?

A Not -- I don't recall him approaching me, no.

Q It was somebody else?

A It was another guy that worked for General Motors.

Q All right. Now then, with regard to the Seventh

Street crowd, I'll ask you if you're acquainted with Mr. Garrett Morris?

A Yes.

Q Mr. Garrett Morris is also a member of the Community Action Agency and serves with you?

A Right.

Q He wasn't elected from one of the target areas, was he?

A No.

Q Mr. Morris was at one time the president of the Morris Plan Life Insurance Company, was he not?

A That's true.

Q And in that connection he was also a conservative Democratic Precinct Chairman of Precinct 105 for many years?

A Right.

Q And he was also State Highway Commission at one time?

A Right.

Q And is presently on the Public Welfare Commission of Texas?

A Yes.

Q All right. Did Mr. Morris ever approach you and solicit you and try to recruit you to run for the Legislature?

A No.

Q Did you talk to him in connection with the prospects

of you running for the Legislature in 1972, if you recall?

A I did mention it to him, yes.

Q He didn't grab you around the neck and say, "Gosh, I sure wish you'd run," did he?

A No.

Q Did he give you any encouragement at all?

A No.

Q All right. Now then, back in 1959 there was a bill that was introduced by a member of the Legislature from Tarrant County to repeal that law which has been placed on the books in '57 that required a local option election before any school district could direct or could allow blacks to go to school with white kids.

A Right.

Q And other than that initiated legislation by that member of the Legislature in '59, can you think of any other legislation that has been offered?

A No.

Q Before or since that a person who was elected from a predominantly black constituency would have initiated?

A No.

Q In other words, while members of the Legislature may vote with you on issues that are presented to the Legislature, can you think of anything other than when I introduced that bill where a member of the House of Representatives went

out in an effort to intiate legislation that was solely directed toward alleviating a black problem?

A No.

(Off record discussion.)

RE-EXAMINATION

BY MS. LEVANTINO:

Q Let me ask just one more question: you indicated that you have approximately 2100 registered voters in your precinct and can get out about 1800 for a presidential election but on a Legislative race maybe 500, is that correct?

A Something like that, yes.

Q You also indicated that this was because they just didn't feel that there was any reason for them to vote on a multi-member system?

A This is to my knowledge, that's right.

Q Are you aware of any change or significant increase in voter turn-out or voter registration in Dallas, Bexar or Harris Counties, especially in those areas which are designated as black districts or have elected blacks from them or in which blacks have been candidates in those single member districts?

A I'm really not too familiar with those counties. I do know they have black representatives, but the voter turnout, et cetera, I'm not familiar with.

MS. LEVANTINO: Okay, thank you.

RE-EXAMINATION

BY MR. GLADDEN:

Q I have a question along that line, since you brought that up.

It's been previously testified that the turn-out in the black precincts was 27 percent in the Webber-Schieffer race.

In the event that the black community had two black candidates running from a predominantly black constituency, do you have an opinion as to whether or not there would be an increase in voter turn-out where the black community was going to select one of two blacks that were offering themselves for the Democratic nomination and that by reason of the black constituency were calculated to select one of the two of them?

A Yes. I believe that they would be.

Q You think there would be a greater turn-out?

A A greater turn-out.

MR. GLADDEN: Okay. I believe that's all.

MS. LEVANTINO: I'm through.

CHANGES AND/OR CORRECTIONS

PAGE	LINE	REASON

_____
R. C. JOHNSON

STATE OF TEXAS §
§
COUNTY OF _____ §

SUBSCRIBED AND SWORN TO BEFORE ME, the undersigned authority, on this _____ day of November, 1973.

_____
Notary Public in and for
_____ County, Texas.

STATE OF TEXAS

COUNTY OF TARRANT

I, Gaylord Sturgess, a Notary Public in and for Tarrant County, Texas, do hereby certify that the facts stated by me in the caption to the within and foregoing deposition are true; that said deposition was taken before me pursuant to the agreement of the parties; that the within named witness was duly sworn to testify the truth; that the questions asked and the answers given were taken by me and subsequently transcribed by me and reduced to typewriting by me or under my supervision, and that the within and foregoing typewritten pages constitute and contain a full, true, complete and correct transcript of all proceedings had.

I further certify that I am neither attorney for, related to nor regularly employed by any of the parties hereto, and, further, that I am not a relative or employee of any attorney or counsel employed by the parties hereto, and that I am not in any way financially interested in the outcome of said proceedings.

TO CERTIFY WHICH, Witness my hand and seal at Fort Worth, Tarrant County, Texas, this _____ day of November, 1973.

GAYLORD STURGESS - COURT REPORTER
UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF TEXAS
NOTARY PUBLIC IN AND FOR
TARRANT COUNTY, TEXAS.

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF TEXAS
AUSTIN DIVISION

CURTIS GRAVES, ET AL. vs. BEN BARNES, ET AL.	CIVIL ACTION NO. A-71-CA-142
DIANA REGESTER, ET AL. vs. BOB BULLOCK, ET AL.	CIVIL ACTION NO. A-71-CA-143
JOHNNY MARRIOTT, ET AL. vs. PRESTON SMITH, ET AL.	CIVIL ACTION NO. A-71-CA-144
VAN HENRY ARCHER vs. PRESTON SMITH, ET AL.	CIVIL ACTION NO. A-71-CA-145
FRANK A. ESCALANTE, ET AL vs. MARK WHITE, ET AL.	CIVIL ACTION NO. A-73-CA-115
JAMES GASKIN, ET AL. vs. MARK WHITE, ET AL.	CIVIL ACTION NO. A-73-CA-146
WANDA L. CHAPMAN, ET AL. vs. MARK W. WHITE, JR., ET AL.	CIVIL ACTION NO. A-73-CA-155

ORAL ANSWER and DEPOSITION of GEORGE A. MCALMON, who resides in El Paso County, Texas, in answer to questions propounded to him in the above entitled and numbered cause, taken at the request of the Mexican American Legal Defense and Educational Fund, before Sharon Rasberry, Certified Court Reporter in and for El Paso County, Texas, in Suite 508, Southwest National Bank Building, on the twentieth day of November, A.D., 1973, at the hour of 2:30 o'clock p.m., in accordance with the following Agreement of Counsel:

APPEARANCES:

GEORGE J. KORBEL, ESQ.,
Appearing on behalf of the Mexican-American Legal Defense and Educational Fund;

R. JAMES GEORGE, ESQ.,
Appearing on behalf of Plaintiff George, Willeford and Plaintiff Intervenor Franklin Sears, et al;

THOMAS BLACK, ESQ., and ELIZABETH B. LEVATINO, ESQ.,
Appearing on behalf of the State of Texas.

MR. KORBEL: I take it that it's stipulated that this deposition is taken pursuant to the order of the Court on discovery and that all objections that will be made are made now and this will be offered into testimony without the presence of the witness.

MR. BLACK: That's fine with me. You mean objections as to form and substance?

MR. KORBEL: Form and substance. Okay. The record should further reflect that this deposition is being taken pursuant to stipulation of parties and all objections as to notice and those type objections are waived, I trust.

MR. BLACK: Uh huh.

MR. KORBEL: Okay. Off the record.

(OFF THE RECORD.)

MR. KORBEL: We won't waive signing.

MR. GEORGE: Before any notary. Stipulated it can be signed before any notary.

GEORGE A. MCALMON

having been first duly sworn by Sharon Rasberry, Certified Court Reporter, to tell the truth, the whole truth, and nothing but the truth, testified as follows:

EXAMINATION

BY MR. KORBEL:

Q Okay. Would you state your full name for the record, please?

A George A. McAlmon.

Q And what's your occupation, Mr. McAlmon?

A Attorney.

Q And where do you live?

A 2001 North Kansas Street.

Q Is that in El Paso County?

A It is.

Q And is that in the El Paso County multi-member district?

A Yes.

Q How long have you lived in El Paso County?

A Well, I've lived here all my life, forty-seven years.

Q Okay. Can you sketch for us briefly your political experience in El Paso County?

A Well, -- of course, I've been a voter since I was twenty-one and have followed the politics in the county since I was that age. More recently, in 1968, I was elected Democratic County Chairman and was re-elected in 1970; so, I had four years in that particular office, and have been active -- I have been active in handling the Democratic functions and then in addition to that, why, I have actively supported a number of other candidates before I was in office and after I was in office.

Q And have you been active in precinct work and voter registration drives and that type of thing?

A Yes.

Q Would it be fair to say, then, in your duties as County Chairman and in your political experiences before and after you've been County Chairman that you have had an opportunity to observe elections in the county, both from smaller or single-member districts and from the large multi-member districts?

A Yes.

Q Would you describe El Paso County as a two-party county?

A I would say that -- that as far as county, local and State candidates are concerned, it is certainly not a two-party county. It's the -- in the -- from time to time, a Republican presidential candidate will draw a majority vote in this county, but I'm unaware of any -- personally unaware of any candidate that has run as a Republican that has ever won in El Paso County at any time since reconstruction days.

Q Are you aware of the percentage of the population of El Paso County which is Mexican-American?

A In general terms, I think it's approximately fifty-eight percent.

Q And the black percentage?

A Black percentage, we believe the black is somewhere about three percent.

Q I see. Do Mexican-Americans account for fifty-seven percent -- fifty-eight percent of the registered voters in

the county?

A No, and this is usually determinable by a count of the Spanish surnames in the voter registration lists and the -- heretofore, it hasn't been this good, but the best ever was last year, 1972, and I believe our count just before the Democratic primary in about March or April of last year showed a thirty-eight percent Spanish surname registration on the list of registered voters in El Paso County.

Q Is there any way to determine what the percentage of black voters --

A We've -- we have no way of -- I have no way of doing that, it's just guesswork.

Q Okay. Do you have any idea or any conception of what that would be?

A Well, I do know --

MR. BLACK: I'm going to object to that as being speculative.

A I would have only an opinion on that subject. No actual counts made, but the -- our opinion would be that the blacks may be rather intensively registered. They have community leaders that work pretty hard at that.

Q Do you know why there's a great discrepancy between the percentage of the Mexican-American population and the percentage that's registered to vote?

A Well, as I said, historically, this is a high point in

Spanish surname registration in El Paso County, that is the thirty-eight percent figure. In prior years, let's go back to the poll tax days, the registration at that time was probably in the -- maybe the twenty-percent range or even less than that from time to time. You see, it was an annual registration and it took the payment of a poll tax and all of the other procedures that went with getting on the voter lists, and with the change in the -- with the court decisions outlawing the poll tax and then with the recent changes in law, it is easier for Mexican-Americans to register to vote, but there is still a carry-over. There are a variety of reasons. The -- one of the primary, of course, is that they have not developed a habit of registering to vote and this is a carry-over from the days when the poll tax obligations and the restrictions kept them from the voter registration lists in large part; and so, they don't have the habit of registration. Again, in great part, the Spanish or the Mexican-Americans in El Paso County are in your lowest income levels. These are the workers, and their dependence and their day to day preoccupations are in survival or in earning a living, earning wages and taking care of their children and taking care of their families and they have some very fundamental needs and necessities that -- and it takes an exceptional person in that area to keep an active interest in political matters. Then again, of course,

even with the change in law, it takes an extra effort for a working man and woman to go through the even improved process, the simplified process, under the new law, let's say, that it takes to go to the courthouse and so forth to register to vote. There's a language factor. Most of these -- I would say that almost all Mexican-Americans in El Paso speak Spanish. A large percentage also speak English to one degree or another, but the fact that they speak -- some speak relatively poor English and do not read English very well limits their participation and interest in political -- in the political area. And all of these add up to a limited registration of Mexican-Americans in El Paso County.

Q After the statutes on the poll tax and the filing fees and that type of thing were declared unconstitutional, were any roadblocks placed in the way of Mexican-American voter registration -- did you -- strike that.

A Well, I would say that --

Q Let the question stand.

A In reply to that question, I would say that there were obstacles placed in the path of registration.

Q Can you describe some of those?

A But in addition to that, why, there was certainly, among the Anglo community, there certainly was no assistance given to them to register to vote. I would say that -- well,

my personal experience is -- was in -- has been in a number of voter registration drives in 1968, '69, '70, '71 and '72, and these were intensive efforts to one degree or another and we found that the County Tax Assessor's Office, for instance, we believe, responsive to certain Anglo portions of the community, may have gone out of their way to make it difficult for the residents of the southside of town, who are primarily your Mexican-Americans, to register to vote. These were little things, but significant things, for instance, in 1968, I believe, we were extremely limited -- no, I believe it was 1969, we were extremely limited in the number of deputies that were authorized to go out and register voters, and we had a great deal of trouble in getting folks deputized. And then there was the question of the release of the voter registration books and, overall, why, it was an accumulation of these small factors, I believe, had its effect and took its toll in limiting numbers of Mexican-American registrants to vote in El Paso County.

Q Did the voter registration office ever require a person to appear in person to register to vote?

A Yes, and then, I believe, in 1970, I believe, there was a switch over to the card system and the attitude of the County Tax Assessor's Office at that time in that year was that the registrant had to appear in person in the County Tax Assessor's Office to register or that the registrant

had to mail his card in, which would mean that, if anybody was interested -- any interested group, that would go and, for instance, set up a table in front of a church, a Catholic church or other kind of church in the Mexican-American community and suggest to people that they register and participate in elections, of course, this was nonpolitical activity, all they were doing was urging people to register to vote, and it would mean, then, that if this -- that they could hand the cards out to the passersby, but if -- that there was no means to carry the cards into the County Tax Assessor's Office and under the policy that was imposed, the cards could only be mailed in; well, at that time, I believe a stamp was five cents; so, it cost an extra five cents to mail these cards in. Now, after a number of months, and the threat of lawsuits and other protests, why, the Tax Assessor and Collector's Office reversed its policy and after that permitted the cards to be hand-carried in group by a deputy appointed by the office.

Q Were these cards required to be sent in singly or could they be sent in together?

A Well, initially, they were required to be sent in -- mailed in singly.

Q They couldn't be grouped together and mailed in together, they had to be in separate envelopes, is that right?

A Well, I think there was -- oh, I know what, we had to --

in fact, what we had to do to avoid that exact problem, I'm glad you mentioned that, was, we had to have the voter registration card printed up at our own expense and, with the reverse side of it made into a post card type of card so that we wouldn't have to put them in an envelope and we did that at our own expense. We had problems with that County Tax Assessor and Collector's Office because they wouldn't give us enough cards to take out and give to people so they could register; so, we had to go to the expense of furnishing these cards ourselves; so, there has been a great deal of problems in assisting Mexican-Americans in El Paso County to register to vote.

Q Do any of the large-local employers present difficulties or roadblocks in the way of voter registration?

A Well, during the voter registration campaign, why, we are interested in seeing anybody from any part of town register to vote. This is a primary part of the democratic process, as we all know, and we have been -- our -- there's a variety of groups that work after this and their political affiliations are also varied, but in this, why, we can all join together and work together in getting people registered to vote. Now, part of our -- some of the groups will set up in post offices, some of them will set up outside of churches, in stores and shopping center malls and so forth. Annually, for several years, for a number of years, we have

had groups that have offered to go into some of the factories in town to register workers during their breaks, lunch hours, before work and after work and at no expense to the employer and never with -- and it being well understood that no worker would be bothered on the job. I know that one, the largest employer in town, has consistently refused to permit us to do that and the name of that company is the Farah Manufacturing Company and the -- that company is proud of the fact that most of its employees are citizens of the United States and are able to vote and presumably reside in El Paso County and they have refused to let us. These are mostly Mexican-Americans, by mostly, I would say in the range of ninety-eight percent Mexican-Americans and the management has refused us permission. Presumably, there seems to be no motivation except that the management is not interested in seeing these people vote, the only explanation that we have.

Q In the highly concentrated Anglo precincts, what'd the percentage of voter registration be, of eligible voters?

A We believe it is in the range of sixty-five to seventy percent.

Q Turning now to an election-day turnout in the Mexican-American areas, what percentage of the registered voters turn out for an average Democratic primary?

A This again is another problem. After the folks,

Mexican-Americans, are registered, why then, to urge them and obtain their participation in the voting process is another hurdle and, on an average -- on an average day, during the Democratic primary, which creates a good bit of interest, I'd say about thirty-five percent turnout is about average. An absolutely exceptional turnout that can be obtained when there's a hotly contested race plus a great effort, maybe in the nature of a door-to-door effort to get voters to participate and to vote, might generate in the range of forty-five to fifty percent turnout; on the other hand, in a reverse situation, particularly in school-board races and things of that kind, the voter turnout can drop as low as ten percent.

Q Now, what about -- that's in the primary itself, what about in runoff elections?

A Runoff elections invariably, in the southside, which is the Mexican-American and the poor area of town, the voter turnout is always substantially lower than in the primary election and can go down to twenty percent or less.

Q Can you contrast the turnout in the northside or Anglo areas?

A The turnout is consistantly very high relative in the El Paso environment and, I would say that on an average Democratic primary day, the turnout would be, in the more affluent areas and in your Anglo areas on the northside, would

be in the range of sixty-five percent.

Q How does the candidate for election turn people out on election day in the Mexican-American areas?

A Well, it's a very complicated -- it's a very complicated process and it's an expensive process because it involves a lot of people and it's not a matter of hiring people so much, but there are linguistics problems, there's gasoline, so forth. Essentially it's a door-to-door, house-to-house, walking type of thing -- that's -- that is also -- the reason and the need for this goes back to the reason why people don't register to vote and this is that they are poor, there's a language barrier, they have so many other more pressing needs and interests, including their livelihood, the need to work and earn and take care of their pressing needs in the family, that in order to -- it's necessary to remind these people, number one, of the election and of the need to go and vote and participate, complicated process.

Q And in the Anglo areas how does a candidate turn out voters?

A I think it's far easier in the Anglo areas and in the northside, the more affluent areas to turn voters out. In the first place, they have a history of turning out and they are accustomed to turning out and they do so voluntarily without any encouragement, by and large. Second, they are well aware of the election, they follow the television, the

newspapers ads, and, of course, candidates will mail out in the northside whereas they do not mail out in the southside, frequently, and also there's candidates that can engage in massive telephone -- intensive telephone campaigns on election day to urge friends and voters to come out and vote on the northside. You can't do that in the southside for the reason that a great many of the people don't have telephones.

Q Besides the problems in voter registration and turnout and the other problems that you've described, what other factors do Mexican-Americans face in the electorial contest?

A What -- would you repeat that?

Q Besides the problems in voter registration turnouts and the other matters that you mentioned, what other factors or problems do Mexican-Americans face in an electorial contest?

A Well, you mean, Mexican-American candidates, let's say?

Q Yes.

A Mexican-American candidates in El Paso County run with an enormous handicap and the handicap is multilayered. It's financial. It's -- to run countywide is very expensive in El Paso County. The cost of television and so forth, all of these factors, the Mexican-American, particularly the resident of the southside that I've frequently mentioned, do not have much money, don't have money for campaign

expenses. There is the -- there is an inate, inborn, let me say, racism that runs through El Paso. It's not -- it frequently is not too obvious, but there's no question and you can see it in every election poll. In the voting process, you can see where Anglos vote for Anglos and Anglos will eschew Mexican-American candidates. They'll eschew them regardless of where they come from in town, will always vote against them if they come from the southside; sometimes will vote for a Mexican-American if he lives in the Country Club areas or in the affluent areas, but the Mexican-Americans on the southside -- Mexican-Americans on the southside really have never had anybody in the State legislature at any time, and I think it's due to this that there's another factor and that's the factor of language that the -- the Mexican-American can be born and raised in El Paso, Texas, go to high school here and can go to college and can be a professional man and a very successful professional man and extremely learned in his field and still retain a Spanish accent. And this is because that the Spanish language may have been the primary language in the home, let's say, until the time he got into high school, got into a northside high school or even went away to college, went in the service or something like that where he was thrown in with folks that customarily speak English and for a candidate who may be a doctor or a lawyer or a professor or P.H.D. at

the college, whatever it may be, he still may have a lingering accent or a heavy Spanish accent and this is a tremendous handicap for a countywide candidate to go on television and hold himself out to office with this kind of an accent and it absolutely turns the Anglos off, and I would say this is a heavy factor, too.

Q Do you know of any instances of overt racial campaigning in elections against the Mexican-Americans?

A Well, times have changed in El Paso. In the old days, why, it was extremely overt. In last decade, I would say, that it's gone underground and there's no question that it exists and there's a -- there's a whisper-type of campaign. There are jokes made and other personal vilification based on this kind of thing, there's no doubt that it is a substantial and heavy factor in this county in elections.

Q Turning now to another matter, is there any slating or effective slating process for the Democratic -- for candidates for the Democratic nomination for the State House of Representatives in this district?

A Well, different groups, of course, support different candidates, but there's no slating in this county that I know of that will guarantee any person a victory, if that's what you mean.

Q There's no formal slating organization, then, is that right?

A No, that's correct. Different interest groups, of course, have different choices and they'll publish their choices, but there's no countywide formal slating that I think in the -- in the context you used the word.

Q If we, for example, does labor enforce here?

A Labor does enforce, that's correct but -- that's right. El Paso County is not a strong labor town, however, and there is this factor about it too, that I understand that our interest is in the Mexican-American voter in El Paso and in this particular context, labor -- it's -- it has a -- an influence, a -- certainly not an overwhelming influence or anywhere near that in El Paso County, but it does have an input in the electoral process, but the labor unions, even though they may not be racially motivated, frequently will avoid good Mexican-American candidates that might support laborers aims merely because, for the pragmatic reason that they don't believe that the Mexican-American candidate can win the race. They will choose to support an Anglo candidate, who is pro-labor, let's say, over a Mexican-American candidate who is pro-labor, for the expediency -- for the expedient reason that they believe that the Anglo can win.

Q What would it cost to wage a serious campaign for the State House of Representatives in the El Paso County multi-member district, total cost now?

A Well, we would estimate that a -- that a -- that a

skimpy budget of the kind that a candidate that has the backing of a lot of people that are willing to volunteer work might run should cost at least fifteen to twenty thousand dollars in this county; although, we might say that last year we witnessed some extremely expensive campaigns, there was the Senate race, the victorial -- the candidate that eventually won the Senatorial race from his district, which is not much larger than the county, spent well in excess of a hundred thousand dollars.

Q If there were single-member districts, what would it cost, in your estimation there?

A I think that the cost would be substantially reduced and brought within the means of -- brought much more within the means of a lot of good and wholesome candidates. I would think that the expense could be in the range of maybe several thousand dollars. One of the factors that would help this reduction, I think, would be that the great and high expense of television could be avoided for a candidate running from a smaller legislative district within the county.

Q For example, talking about these smaller districts, do the County Commissioners utilize television advertisements?

A Well, there are four County Commissioners in El Paso County and they have the county split up in about four equal precincts at this time and I do not remember in any Commissioner's race, that television media was used.

Q In your opinion, then, in a single-member district, could you go door-to-door and be very effective?

A I think that a good candidate with a minimal amount of money and with the support of people -- of persons, could really run a worthwhile campaign on a door-to-door basis and on a person-to-person basis within his own legislative district with the expenditure of almost no money.

Q Would you say, in light of all these matters we've discussed so far that it's substantially more difficult for Mexican-Americans to be elected in El Paso County than an Anglo?

A I think that the Mexican-American has an extremely tough job of winning any elected office in El Paso County countywide and is greatly handicapped. A candidate is handicapped and then, in addition, you have the factor that good men and women who would be good candidates and good office holders declined to run for office because of this great handicap and because of the strong likelihood of defeat. And rather than join an abortive and quixotic effort along these lines, why, will decline to run, and we're losing good people in office that way.

Q In your experience as County Chairman, have you asked people or suggested to people that they run for election, and have they expressed reluctance because of the size of the district and the problems we've discussed so far?

A Yes. There's no question that many good potential candidates have told me they will not run and can't afford to run because the likelihood of victory is remote and under those circumstances, they are unwilling to go to this abortive effort at great expense to themselves and their friends.

Q In the last several years, let's say, since 1960, where have all the candidates come from, can you describe generally the area?

A All of the candidates, even the few with Spanish surnames come from the northside of town. No candidates are ever elected from the southside of town. I can't think of any candidate at any time that's even been elected from the southside of town. And these are your -- and this is a very healthy percentage of the county, these are Mexican-Americans and they are poor Mexican-Americans.

Q In your opinion, as a long time political observer in El Paso County and former Democratic Chairman of the El Paso County, does the existence of past instances of discrimination against the Mexican-Americans preclude their effective participation in El Paso politics?

A Absolutely.

Q Would you say that the use of the multi-member district in El Paso County coupled with the majority play system in the runoff elections enhances the opportunity for racial

discrimination in El Paso County in elections in the El Paso County multi-member district?

A It certainly does.

Q Would you say that the size and the cost of running and the racism which you described acts to discourage candidate recruitment among Mexican-Americans?

A I mentioned that a little while back, and I would say absolutely yes.

Q Do you know how many Mexican-Americans since reconstruction have run for the State House of Representatives?

A Thinking back, I would say in the range of maybe six or eight total that are Spanish surname or Mexican-American, but as I said, I don't think any of those really come from the southside, even the Mexican-Americans that run for the legislature or have run for the legislature come from the northside, affluent and country club areas.

Q Once again, in your opinion, does the multimember district in El Paso County operate to dilute, minimize or cancel out the voting strength of the Mexican-American in El Paso County?

A Yes.

Q If there were single-member districts in El Paso County, no matter how they were drawn, how many Mexican-Americans would you expect to be elected from the county?

A Well, I think that fairly that there ought to be, maybe

two out of four.

Q At least two?

A Yes.

Q In your opinion, is the political process leading to the nomination and election equal of candidates for the Texas State House of Representatives in El Paso County equally open to participation by Mexican-Americans?

A No, the Mexican-Americans -- the Mexican-American, the great bulk of whom lives in the southside area, whom I described, is disenfranchised in El Paso and does not have an effective political place in this county.

MR. BLACK: I'm going to object to your answer to that question for the eighteenth time on the grounds that it's repetitive.

MR. KORBEL: Off the record.

(OFF THE RECORD.)

MR. GEORGE: I have some rather brief questions about two or three specific things.

EXAMINATION

BY MR. GEORGE:

Q In your description of the difference between the percentage of people with Mexican-American surnames and the percentage of registered voters with the Mexican-American surnames, you mentioned several factors. We are on the border between the United States and the Republic of

Mexico, are some of the people who live in El Paso County and have Spanish surnames aliens?

A Yes, that's true, there's an alien factor in the Spanish surname population in El Paso County.

Q All right. Is there anyway to know how many of those, what percentage it is?

A Outside of the census, the 1970 report, I think, would be your best authority there, and I'm not sure that factor is contained, but nonetheless, I would -- I believe -- not believe, it is my understanding that the -- that the factor of aliens in the country would be maybe in the range of say five percent or something like that, which would still put the Mexican-American citizen capable of voting in excess -- well in excess of fifty percent.

Q But they are some factor?

A Yes, that's correct.

Q In order to fill up on a small gap, can you describe briefly your role, your job, as the chairman of the Democratic Party in El Paso County?

A Well, it's the same here as any other county in the State. The Democratic County Chairman is responsible primarily, for handling the Democratic primary every two years, the county conventions every two years and calling the -- under statute, and calling meetings of the county committee made up of your precinct chairmen, causing the

election of precinct chairmen for -- in the event of vacancies, of course, over and beyond the statutory function, most county chairmen get deeply involved in the election process and in the support of Democratic candidates and I have done that.

Q On -- kind of on the same score, you mentioned we have made efforts to register voters and we have done this and that. Can you describe who you meant, generally, by we?

A Well, as Democratic County Chairman, it's -- it was my policy to encourage everybody and any group that wanted to be active in registering votes and there's been a variety of civic minded organizations over the years that have been interested in this, and these include, for instance, there's -- in 19 -- 1971, there was a very effective and intensive drive by the downtown civic clubs, El Paso civic clubs, including the Kiwanis, Lions, Rotary's and others to do this and that was one group that was very effective. And we helped them as much as we could. The student groups had been effective. The labor groups have been interested. The League of Women Voters, I think, has been very interested. And we have attempted to assist all of these different groups, anywhere they wanted to do, in any of their efforts to register voters, and these are the groups that I am referring to.

Q We, you mean the Democratic Party officials such as your-

self?

A That's correct. We did this, not as a party --

Q Not as party officials?

A Not as a function of the Democratic Party, but just on our individual motivation.

Q You mentioned that there are four County Commissioners, is that correct?

A That's correct.

Q And they run from single-member districts in El Paso?

A Yes, that's right.

Q If my math is correct, that's roughly seventy-eight thousand persons in each district?

A Yes, that's very close.

Q How many of those people have Spanish surnames?

A How many of the Commissioners?

Q (Indicating.)

A At this time two do.

Q Two out of the four?

A Yes.

Q Uh huh. And you say that those -- do you have any idea what the salary is for a County Commissioner?

A I can't follow -- I don't follow that county politics too good. I can't remember -- I think that -- they tried to get the wages up as much as they can constantly, and I think that the -- I'm not sure -- sometimes they are

successful and sometimes they are not. We tried to keep them down.

Q Well, what do you think?

A I think they are -- what are they making these days?

MR. BLACK: In Travis County they don't make nothing.

A You ought to tell them to come out here.

MR. KEMENDO: I know.

A Go ahead, Vince, how much is it?

MR. KEMENDO: Fifteen thousand dollars.

A Correct.

MR. BLACK: We'll stipulate it's fifteen thousand dollars from a learned witness.

MR. KEMENDO: They get a car allowance, too. I ran for the office.

Q (By Mr. George) Okay. So, we have stipulated that the salary for the County Commissioners is fifteen thousand dollars. Do you know what the salary is for a State Legislature?

A Somebody will have to fill me in on that, too, it seems to me it's forty-eight hundred dollars a year plus expenses and travel expenses and office expenses.

MR. KORBEL: We'll stipulate that that's what it is.

Q (By Mr. George) So, roughly one-third the salary of the County Commissioners. And your testimony was, I believe, that you have -- in living here forty-seven years

you have -- you do not recall any use of the broadcast, television media, for campaigning for these County Commissioner seats?

A I personally can't recall any. It may have occurred.

Q Certainly.

A I would say it would be very limited. I can't remember any.

Q Have -- it would be an unusual phenomena?

Q There's no necessity for television coverage for a person that's running in a single-member district like a Commissioner's precinct or like a legislative district because the -- when you buy this expensive television coverage, why, it covers the whole county, and in fact, covers the whole region, and because of the coverage, the expense is very high, but if you are running for a position that covers maybe only twenty percent of the county, sizewise, why, it would have -- very few people would be willing to buy television coverage to get to that limited number of listeners or viewers.

Q And you are basing that, not on speculation, but on your own experience of what does happen?

A I would say that, in my experience, as advising and managing campaigns, that we would not advise that there's -- would not advise the expense -- this particular expenditure.

Q Okay. Do you have any personal or have any knowledge

about -- personal knowledge or knowledge through your role as an observer of Democratic Party politics in El Paso County, expenses in contested races in these County Commissioner's races. Does any man send a hundred dollars or five hundred thousand dollars or five thousand or --

A I think the experience is that the candidates running for County Commissioners -- candidates running for County Commissioners spend substantially less than candidates running, let's say, for a county-wide office, such as the County Judge or for the legislature or any other county-wide office. You can run -- and I think, one of the incumbents at this time reported that he spent, maybe just several hundred dollars at the most during his victorious campaign for County Commissioner.

Q Was he opposed?

A He was opposed in the Democratic Primary and he was opposed in the November election, general election.

MR. GEORGE: Okay. That's all I have.

MR. KORBEL: I've got one other short thing.

FURTHER EXAMINATION

BY MR. KORBEL:

Q Are you aware of the -- generally of the public housing in El Paso, housing projects?

A In general, but no specialized knowledge.

Q And do you have an idea of what percent Mexican-Americans

and Blacks live in that public housing?

A The overwhelming percent, I'd say in excess of -- does this include the old age housing?

Q No, no, with exception of the old age housing.

A Just the public housing? I'd say in excess of ninety percent are Mexican-Americans.

Q And in the past, is it true that most of that public housing has been placed along the river in the Mexican-American areas?

A It has been placed in the southside areas that I have described.

Q In the past couple of years, have some of these projects been located in the northside or in the Anglo areas of town?

A Yes, that's true.

Q And to your knowledge, has there been any public reaction to the location of these housing projects?

A There has been a lot of -- well, say, protests by the Anglo residents of the northside areas when these -- when the housing projects were proposed to be built within their residential areas, yes.

MR. GEORGE: The only thing I have is to clear up a little bit about these County Commissioners.

FURTHER EXAMINATION

BY MR. GEORGE:

Q There are four legislatures elected at large from District Seventy-one, is that correct?

A There are four at large, that's correct.

Q So, at least, theoretically, if there were single member districts, they would reflect pretty much the same kind of districts the County Commissioners have?

A That's right.

MR. GEORGE: And result -- well, that's all I have.

EXAMINATION

BY MR. BLACK:

Q Mr. McAlmon, let me just ask you a few questions about -- I don't believe you've really told us too much except just inferentially about the makeup of El Paso County, geographically and with respect to the ethnic groups. I take it, from your testimony, that there is a, what you might describe as a Mexican-American ghetto or area which you refer to as the southside?

A Yes, that's right, I'd say you could call it a ghetto area, yes.

Q Is that the southside of the county or the City of El Paso or where is it?

A Well, it's geographically the southside of the county. It roughly runs south of Interstate 10 which runs right through the middle of the county from east to west.

Q And approximately how many Mexican-Americans reside in

that area, please, sir?

A Well, of course, they are not all Mexican-Americans that live in the area. The -- the -- you mean just population wise?

Q Yes, sir.

A I would have to look at the census tracts to give you a really intelligible answer on that.

Q Well, if you can't give me an intelligible answer, I don't want an answer.

A I would say -- I would say about, maybe forty percent of the county.

Q Of the whole county population or of the --

A Yes, the whole county population.

Q -- or of the Mexican-American population?

A No, of the whole county population.

Q Now, is that the only place where Mexican-Americans live in an isolated group in this area?

A Yes, Mexican-Americans live in every precinct in town, but there are some precincts may have two or three Mexican-Americans living in them or Spanish that you can see on the voter registration roles or in the population roles from their Spanish surname, and then, the southside, why, the overwhelming percentage in the range of -- in the range of anywhere from eighty-five to ninety-eight percent are Mexican-Americans.

Q Now, is there a County Commissioner elected in a precinct that includes that southside?

A Yes.

Q And is he from that area, what's his name?

A His name is Richard Telles. There are two Mexican-American commissioners. One is Richard Telles, who represents the west end of the southside and Rogelio Sanchez who represents the east end of the southside. Actually, I believe, the gentlemen reside, both of them reside -- would probably be -- do not reside in precisely the ghetto area because their precincts include some of the Anglo precincts as well as the southside precincts.

Q And they live in the Anglo area of their precincts?

A I'd say in general that's a correct statement.

Q All right, sir. So, you don't have anyone on the Commissioner's Court from the southside area, is that correct?

A I'd say that precisely lives in the southside, in the ghetto areas, no.

Q All right, sir. Is the County Judge -- I presume he makes up the fifth member of the Commissioner's Court?

A That's right.

Q Is he an Anglo?

A He's Anglo, that's right, he's Anglo.

Q All right. Do you know --

A We've never had a Mexican-American that's been a County Judge.

Q When he was elected last was when, 1972?

A '72.

Q Was he -- did he run a contested race at that time?

A Yes.

Q And who ran against him?

A An Anglo.

Q Did they use the television medium in their race?

A Yes, heavily.

Q Now, this Tax Assessor you say that put up all these roadblocks and obstacles on voter registration, has that problem been solved now or is that still a problem?

A I don't know. I haven't -- I have not talked to anybody. I'm not sure what groups are attempting to register voters at this time, and I've been out of contact with them.

Q I presume that Tax Collector and Assessor is an Anglo, is that correct?

A The present Tax Assessor-Collector is an Anglo.

Q Well, was the one that was giving you all the trouble an Anglo?

A I'm not sure exactly where the trouble came from. All I know is that the trouble came out of his office.

Q During the time that the trouble came out of the office of Tax Assessor and Collector --

A He was a Mexican-American.

Q All right, sir. Where was he from, what part of the County?

A He was -- he had -- he had a nice large house on the northside.

Q All right sir. Now, this -- the problems that you have had from employers, you mentioned one, Farah, or -- is that the right way to pronounce that?

A Yes.

Q Were there any others that you had any trouble with?

A That's the only one that I can remember as to two years ago.

Q Now, do you have -- I don't know whether -- how to exactly phrase the question but do you have any idea why Farah was doing this, I mean, was it because their employees were ninety-eight percent Mexican-Americans or if their employees had been ninety-eight percent Anglos, do you think they would have taken the same attitude or was this a racial thing they were doing or was it against their employees or why were they doing this or do you know?

A Well, I've not talked to the president of the company but this -- but the only inference that we can gain from his abject refusal for us to register his voters at our expense and with no trouble or expense to him was he didn't want them registered because he didn't want them to vote.

We have no other reasons -- we have no other -- there seems to be no other inference to draw from the decision -- the policy decision that he made.

Q You are assuming that if his employees had been Anglo that he wouldn't have taken this position?

A I think that's probably correct.

Q Do you think it's a logical assumption?

A I think there also is a factor that these are workers and that --

Q Are they members of a labor union?

A No. That there may be that he might have had in his mind -- that he might have had in his mind that these Mexican-American workers would vote against the candidates that he would have supported -- that he would support.

Q Now, I believe you are saying that if you had single member districts in this county that --

A Excuse me. I've got a hearing in district court at four p.m.

Q Well, I have a plane to catch; so --

A And I let time go by, I should have warned you about this a little earlier.

Q Well, I wish you would have warned your Counsel, because we didn't get started on this until fifteen minutes after we were supposed -- we do want our right to cross examine.

A Go ahead. I want to give it to you, but I'm going to have to go to a hearing, I'm going to be out of court.

Q Well, I'll try to --

A What time is your plane takeoff?

Q Four-forty-five.

A Okay. Let's go, I'm going to --

Q Well now, I just wanted to ask you a little bit, you're assuming that if you go to single-member districts that the people that run for the House of Representatives won't use the television media, that you are assuming?

A I'd say, yeah, that's right, most candidates would not.

Q Do you know what the experience has been in the counties of Texas that do have single member districts?

A I do not know that.

Q All right, sir. And I presume that experience would be of some moment to your opinion on that, wouldn't it?

A If I knew it -- it would -- might make a difference.

Q All right, sir. Now, how many Mexican-Americans are in your legislative delegation at the present time in the House? I believe your Senator is a Mexican-American?

A I don't believe we have any Mexican-Americans in

the House at this time.

Q Out of four?

A Out of five from this county. Well, there's four that

run at large and there's one who represents a portion of the south end of the county and other counties as well.

Q What was the significance in '70 -- this was the sixty-third legislature, what was the significance in the sixty-second legislature?

A That was the one before?

Q Uh huh.

A I think we had two Mexican-Americans in the legislature.

Q What happened to them, were they defeated or what?

A Well, they ran against each other for the Senate and those that -- all Mexican-Americans that ran for their places, as well as other places, were defeated.

Q What about in four years ago?

A Four years ago, there were three Mexican-Americans in the legislature.

Q All right, sir.

A And they were -- one of them was defeated that year.

Q Well, do you have any explanation for that, do you think conditions are getting worse in this county as far as the Mexican-American is concerned?

A Yes, I really think so, I think that --

Q But their voter registration is vastly increased, has it not?

A Well, not vastly, it's still nowhere near their numbers

percentage wise in the county, but it has increased over the years with great effort of those that -- with great effort of civic minded groups and persons that help them register.

Q Over the past, say, six years, over the past three sessions of the legislature, do you think that the El Paso County delegation to the House of Representatives has been responsive to the -- on issues in which the needs and interests of Mexican-Americans are involved?

A I would say that it's gotten progressively worse in that regard. And again, I'd like to say that regardless of the -- of the fact that there has been in the legislature representatives from El Paso with Spanish surnames or Mexican-Americans, but none of them --

Q I wish you'd answer my question, if we are in such a hurry. My question is about the bills and issues before the legislature and the response and the votes of the El Paso County delegation.

A All right. The record last year was very miserable, very, very poor.

Q Would you name one particular bill in which -- and how they voted?

A All right. Well, let's see, I think there was a vote on the Texas Minimum Wage Law.

Q All right. How was that, what was the vote on that?

A I think it was a -- I think it was a three to one vote against the minimum wage. The -- I would have to -- I'd have to get out some files and check the different legislative votes and also the precise legislation that was voted on to be able to give you that answer a little better.

Q What about the bill to establish bilingual education, do you think that's something that would be for the needs of Mexican-Americans?

A Yes, it sure would, and I can't tell you precisely what the vote was.

Q All right, sir. So your opinion about that is more general and based on specific fact?

A Yes, that's right, I'd say so.

MR. BLACK: All right sir. I don't believe I have any further questions.

* * * * *

THE STATE OF TEXAS |
|
COUNTY OF EL PASO |

I, Sharon Rasberry, Certified Court Reporter in El Paso County, Texas, do hereby certify that the facts stated and set forth in the caption hereto are true; that after the above named witness had been by me first duly sworn to tell the truth, the whole truth and nothing but the truth, the foregoing questions were propounded to him by the

attorneys heretofore named, and that the foregoing answers were made by said witness in respect thereto; that the foregoing questions, as well as the answers of said witness to said questions, were taken in stenotype by me and thereupon transcribed upon a typewriter.

GIVEN MY HAND, this twenty-eighth day of November, A.D., 1973.

SHARON RASBERRY
Certified Court Reporter in and
for El Paso County, Texas.

I, George A. McAlmon, do hereby attest that my testimony on Pages Three through Forty-One is true and correct.

GEORGE A. MCALMON

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF TEXAS
AUSTIN DIVISION

WHITE	I	
VS.	I	CA NO. A-71-CA-143
REGESTER	I	

A P P E A R A N C E S :

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COUNSEL FOR DEFENDANT

Deposition and answers of APOLONEO MONTEMAYOR, who resides in Nueces County, Texas, taken herein by the counsel for the Plaintiff, before RONNIE VERNON, a Notary Public in and for Nueces County, Texas, on the 27th day of November, A.D., 1973, between the hours of 2:00 p.m. and 3:45 p.m., in the Commissioners Court Room, Nueces County Courthouse, Corpus Christi, Nueces County, Texas, in accordance with the following stipulations and agreements:

IT WAS AGREED by and between counsel for Plaintiff and Defendant in the above numbered and styled cause that all formalities, including issuance of notice, are waived specifically, and that the oral deposition of APOLONEO MONTEMAYOR, may be taken herein forthwith before RONNIE VERNON, a Notary Public in and for Nueces County, Texas, said deposition being taken with the same force and effect as though all requirements of the statutes and rules had been fully complied with.

IT WAS FURTHER AGREED that no objections need be made by any party at the time of taking said deposition; except objections as to the form of the question and leading questions or the responsiveness of the answer; but if and when said deposition, or any portion thereof is offered in evidence on the trial of this cause by any party hereto, it shall be subject to any

other legal objections, such objections to be made at the time of the tender, the same as though the witness were on the stand personally testifying.

IT WAS AGREED BY AND BETWEEN COUNSEL and the witness, that the signature of the witness hereto is waived.

IT WAS FURTHER AGREED that after said deposition has been returned into court in accordance with these stipulations and agreements, it will be treated by the parties hereto and may be used herein with the same force and effect as though all statutes and rules relating to the taking and returning into court of depositions had been fully complied with.

MR. KORBEL: For the purpose of the record, it should be noted that this is a stipulation concerning objections as to form and substance and notice of the deposition are waived. It should further be noted that the form and substance as to questions or matters which are brought out in the deposition should be brought out at this time, and when the deposition is offered in evidence, it will be subject to any objections made.

It that my understanding?

MS. LEVATINO: Right.

APOLONEO MONTEMAYOR,

having been first duly examined, cautioned and sworn upon his oath to tell the truth, the whole truth, and nothing but the truth, testified as follows:

E X A M I N A T I O N

BY MR. KORBEL:

Q Would you state your name and address for the Court, please.

A My name is Apoloneo Montemayor, 4633 Vestal Street.

Q Is that in Corpus Christi?

A Yes.

Q Is that within the Corpus Christi multi-member district?

A Yes.

Q Can you tell us your occupation?

A International Representative for the United Steel Workers of America, AF of L, CIO.

Q What specialty are you involved in?

A The civil rights department.

MR. KORBEL: Would you mark this, please.

(The above mentioned document was marked Plaintiff's Exhibit 1, Montemayor, for identification.)

Q I am going to show you what has been designated as Plaintiff's Exhibit 1, Montemayor, Nueces County, and ask you to identify it.

A That is my testimony in the matter of the Corpus Christi Independent School District case.

Q When was that taken?

A I believe it was two years ago in July.

Q All right, sir. I believe that is right. Were you sworn to tell the trust at that time?

A Yes.

Q You were under oath?

A Yes.

Q If I asked you the same questions you were asked in that case, would you answer the questions the same?

A Yes.

C And you have read through that and you are of the opinion it is correct?

A Yes.

MR. KORBEL: I will in evidence at this time Plaintiff's Exhibit 1.

MS. LEVATINO: No objection.

Q I want to focus your attention on the schools in Corpus Christi. Do you have any knowledge as to whether or not the schools are racially identifiable?

A Yes, the same as during the trial.

Q Can you describe how they were during the trial and how they are today?

A During the court proceedings, they named the schools within a corridor, which is the west side.

Q Maybe I can show you this map and you can identify it.

A Yes.

MR. KORBEL: Would you mark this?

(The above mentioned document was marked Plaintiff's Exhibit 2, Montemayor, for identification.)

Q I am going to show you Plaintiff's Exhibit 2, being a map, and a plastic overlay which is idenfied as Plaintiff's Exhibit 2a, Montemayor. Can you describe what this represents?

A It represents the testimony offered in federal court.

Q First of all, this is a map of Corpus Christi, the City of Corpus Christi?

A Yes.

Q And overlaid on that are the census boundaries or census traps?

A Yes.

Q Okay. Go ahead.

A And this in orange what was established as a corridor where the vast minority of Spanish-speaking people go to school. They were identified and are now identified as Mexican schools, with a percentage of Mexican-American population between 92 and 98 percent. The composition of Black in those schools vary from 4 to 5 1/2 percent and Anglos 1 to 2 percent, depending on

some schools. It is still the same way today.

Q Can you tell me generally on this map where the racially identifiable anglo schools would be located?

A That would be on the south side or from this street. I think it is Everhart.

What is this? Well, south of Weber. Percentage wise, it would be, or was, approximately the same as the corridor of Mexican-Americans.

Q It would be approximately the same as it was in the original --

A I say was. They may show some differences now because of a satellite school being transferred now, which is black. They closed this school here.

Q When you say here, you are referring to the lower right hand corner, which is around the channel?

A Yes.

Q Precincts 1 and 30 and these here?

A Yes. And 21.

Q This is considered to be a satellite zone?

A Yes, on the present integration plan. Solomon Coles Junior High School was closed and those people were offered, and in most cases took the transfers.

Q Would the majority of those people be Blacks?

A Yes.

Q So there has been some black-white integration of Corpus Christi?

A Yes. And some voluntary transfers of people that provide their own transportation, so the changes on the south side in some schools could be better because of this.

Q In any case, would you have an opinion as to the percentage of Anglos which attend these schools south of Weber Road?

A The percentage is the same. There is no transportation from the south to the west.

Q No free transportation?

A It is not offered and they have not asked for it. They would, if they asked for it, but they are not going to in most cases. There were some transfers from Peary Place into the first school.

Q Peary Place would be identified as Precinct Number what?

A It is not on the map. It is next to the Naval Air Station. It used to be for military personnel. It is about 40-60 but not totally military. They do not have the facilities there, so they attended our schools.

Q When you say our, do you mean the Corpus Christi Independent School District?

A Yes.

Q Now, we are referring to matters which all came up during the Corpus Christi school case, Cisneros versus the local school district?

A Yes.

Q Since that time, has there been an increase in the racial tensions in the community?

A There is no question but that it has increased. This case was filed in July, July 5, 1968, to the best of my recollection. No one paid any attention to it, not the school board, not the school superintendent, the lawyers or the angry south side community, except for the Plaintiffs. All of a sudden when it came to trial, the south side community was shocked, supposedly.

Q This would be two years ago, is that correct?

A Two years ago, yes. I believe '71 was when Judge Seals was the Judge.

Q It was in 1970, I believe.

A Yes. It seemed that all of a sudden they found out this case had been pending and it could mean -- what happened the first day of the trial, there was no emotion, but evidently the school board or

somebody got on the telephone that night to the south side.

MS. LEVATINO: I will object to this.

A To provide the violence.

MS. LEVATINO: I object to that answer on the grounds of hearsay.

Q You may continue.

A But they were there. At one point they even applauded for the attorneys of the school district, at which time the Judge himself said that he was ashamed of their actions and that he could tell it was motivated by telephone conversation. I believe the record shows that. So from that moment on, the creation of the Concerned Neighbors came to the point where the tension has increased. It has definitely increased. It became visible --

Q Before we continue --

Now, what was it about the case which increased the racial tensions in the community?

A The testimony offered by Doctor Carter and testimony by Plaintiff's attorneys and us. I say us, it was our Union or members of our Union and the reporting of the news media as to where busing was coming.

Q Busing became a celebrated cause?

A That is right. And that is when the community, or the Anglos expressed concern. Community organizations like Concerned Neighbors were created for the purpose of opposing busing and supporting the concept of neighborhood schools and they met all over town and made no bones about it and created a tremendous of tension.

Q Would you say it has polarized the community?

A It definitely has. They tried to intervene in the case, which they did not get in. The court would not take it into consideration, so they put leaflets over the community and made telephone calls all over town of the damage that would be created and there is no question that racism was increased.

Q And since the original hearing on the Cisneros case, has the court in Corpus Christi from time to time had additional hearings on the Corpus Christi Independent School District case?

A Yes. The court reviewed the proposals of the school board.

Q Has this increased racial tension?

A Yes, it is there. It is not as open right now and they are dormant, because nothing has really happened in creating a unitary school system. The people that have been molested on the west

side, the Blacks and Mexican-Americans, the school district has juggled them around and has not molested none of them except the people transferred from Peary Place, so therefore it is kind of dormant right now. It has molested them except perhaps the transfers going in.

Q But still this increased racial tension still is in existence?

A Oh, yes.

Q You said you were involved in the steel workers which deals with civil rights, is that correct?

A Correct.

Q Was the steel workers' union one of the sponsors of the Cisneros case?

A The steel workers' membership brought this to my attention some ten years ago.

Q When you say this, you mean the segregation?

A Yes, the problem of the schools, the inferior schools, treatment of the children and what they had at this time.

For example, there would be a sequence system where some teachers would say you would never make it and you are in group 4, and you are in group 1 and so forth, you know.

Q The sequence system, this would be a plan to direct

Mexican-Americans toward what?

A Supposedly to separate the smart ones from the ones who were dumb, you know.

Q Was that done by testing or what?

A Testing or observation. In many cases the teacher said he or she were not bright enough and they would place them in there because of that. It was in the lower sequence.

A What was the result of that with the primary amount of Mexican-Americans being placed in these areas?

A The vast majority of the Spanish-speaking people were classified in the lower area and the curriculum of the books in that area were taught to them. The result was a high school graduate will graduate with a reading capacity of the seventh or eighth grade.

Q That would be the average graduate of this quarter area?

A Yes, and the 97 percent of those, if they want to go to college, have to go for further preparation at Del Mar College.

Q When you say Del Mar College, that is the local junior college?

A Local junior city college. In most of the cases,

that is still the same.

Q Would you contrast that with the performance of the Anglo areas?

A Yes, the Health, Education and Welfare Department quoted their statistics that approximately 80 percent of the students of the south side schools can enter college without any further preparation. Less than 20 percent would be in the west side area schools.

Q Those were the quarter schools?

A Yes, less than 20 percent can go from high school to college. I would like to say more about the union and the Plaintiffs.

MS. LEVATINO: Are you going to introduce those figures?

MR. KORBEL: Off the record.

MS. LEVATINO: I will object to the figures that Mr. Montemayor spoke pending the introduction of the figures from the HW studies.

Q (Mr. Korbel) Go ahead.

A So you see, for sixteen years, I was servicing the membership of our union, so the Plaintiffs came to us and they had agreements -- I could not promote demonstrations against the school board.

This was the agreement. I didn't think that would help.

Q So you advised against demonstrations?

A That is right. I advised them to go to the school board, but peacefully, and no demonstrations. They had some local groups, you know, and I told them I would take it up under advisement with our international officer and I did and the director agreed that something had to be done. I brought it before the international board and the international board okayed on financing them and the furnishing of lawyers. By the time the suit was filed, I was already employed in the civil rights department of the union, so I discussed it with our membership and I told them the procedures they would follow, that they would sign an affidavit to present to the court and so on and that is how it started.

A Has the steel workers' union become identified with the Mexican American causes in the community?

Q Yes, but I want to tell you that the local union is composed of 60-40, 60 percent Mexican-American and 40 percent Anglo, and 1 percent Black. Reynolds Aluminum has 35 percent Mexican-American and 2 percent Black and the rest are Anglos. The

Mexican-American membership is very enthusiastic about learning the procedures. They believe strongly that the union -- that there is salvation. 90 percent of the board is Mexican-American and the reason being because the Anglo member does not need the union as much as the Mexican-American. The Anglo can lose their job, quit or get fired, and can get one twenty times better than the Mexican-American can. They are dedicated to work and learning to enforce the contract and things of this nature because of the leadership and it has been identified as a Mexican-American movement in this area.

The staff, that is myself, has always been, with the exception of the first year, has been Mexican-American staff representatives first in my case and then when I moved up, my place was taken by another Mexican-American. Therefore we are identified with the community because our families went to the quarter schools. The membership said what is the sense of my making five dollars an hour if I have to send my children to a quarter school. That is the reason the steel workers became involved in this case. That is why.

Q And the union is identified with Mexican-American causes?

A There is no question about it.

Q If you mentioned the steel workers' union in Corpus Christi, the average person would think of what?

A He would think of the political and social activities with the school and the strikes.

MR. KORBEL: Would you mark this?

(The above mentioned document was marked Plaintiff's Exhibit 3, Montemayor, for identification.)

Q I am going to show you what has been identified as Plaintiff's Exhibit 3, Montemayor, Nueces County. Can you describe that?

A Well, Doctor Thomas Carter was one of the expert witnesses that the Plaintiffs brought into the case for the purpose of explaining the segregation situation.

Q This would be the Cisneros case?

A Yes.

Q And this was his testimony in 1970, is that correct?

A Yes.

Q And during that proceeding, did you sit through the entire trial of the case?

A I would say 95 percent of the time.

Q Were you there when Doctor Carter testified?

A Every moment of his testimony. I believe if my memory serves me right, he testified here and during the hearings in Victoria.

Q For the Victoria case?

A No, the Corpus Christi case. The hurricane made it difficult for the court to proceed here, so they moved the hearing to the Victoria courthouse.

Q I see.

A And this is his testimony.

A Okay.

MR. KORBEL: I am going to offer what has been identified as Plaintiff's Exhibit 3 into evidence.

MS. LEVATINO: We will object to it on the grounds --

MR. KORBEL: I might say that parts of the record are abstracted in the opinion.

MS. LEVAINTO: I am going to have to go through this, because I cannot say that I will not object to it without going through it.

MR. KORBEL: I understand

MS. LEVATINO: I can't tell you the grounds of my objection right now without going through it.

MR. KORBEL: I think, for the purpose of the record, you will take a look at the testimony and can agree that maybe before trial that we can agree upon a stipulation under which this can be offered.

MS. LEVATINO: All right.

MR. KORBEL: Also, I would like to offer Plaintiff's Exhibit 2 and 2a into evidence, subject fo further explanation and at the time of trial.

MS. LEVATINO: No objection.

Q (Mr. Korbel) Now, in your testimony before the trial court, in the Cisneros case, you stated most of the service organizations in Nueces County are racially identifiable, is that correct?

A Yes.

Q Do they continue to be in the present time racially identifiable?

A Yes.

Q Are the service clubs racially identifiable, such as the Lions, Rotary and so forth?

A To my knowledge, the Rotary has eight Mexican-Americans, I believe. You have a west side club and you might find more there.

Q But your downtown organization is all Anglo?

A Yes, with few exceptions. I could name them almost.

Q Now, during the time that you have been involved with the steel worker's union, I suppose you have had an opportunity to examine elections.

A Yes, I sure have.

Q Is that a part of your function?

A Yes, sir, especially in the legislature.

Q During the time you have been looking at these elections for the school board and whatever, would you say there is ever been an occasion to use racial tactics against the Mexican-American?

A Yes.

Q Would you describe that?

A It is sometimes the way of doing it. Maybe if you say at the Cisneros case even at that time the school board tried to prove that the Mexican-Americans were unidentifiable, that we were just white and nobody could tell the difference. They tried to make that a point and it was foolish, and, of course, anybody, even if you are blind,

could tell that we are identifiable.

To answer your question, racial overtones -- you see, the west side is Mexican-American primarily.

Q This is the quarter area?

A Yes, when we have elections, it is advertised that the west side is coming out and voting heavily and this is done by noon. The headline says west side voted heavy and then somewhere in the body of the story, is where they are interested in so and so and so and so and right there they say the west side is going to elect the Mexican representation. The south side knows after that that they must do something and they vote very heavily in the afternoon. Many times there are paid radio advertisements that are used and also the newspaper.

Q And they say that the west side is voting heavily or the south side is voting heavily?

A Yes, the west side, they say. And they also say supported by the steel workers.

Q Those are catch phrases?

A Yes, that is right, and that proves it. I made some notations on some of the candidates for the past fifteen years, but -- did I answer your

question?

Q Yes, sir. How about whisper campaigns that exist on election day? Do you have that happen here?

A Yes, mostly by telephone. The reason why we know for a fact is because sometimes they call Adams, but it is Adame in Spanish and they rattle off and they say if we don't get out to vote the Mexicans are going to take over. While this is going on on the telephone, they can't help but make some mistakes and sometimes they call a Gonzales or somebody that is married to a Mexican American and this is how we know it happens.

Q How about in your plants, do you see any racial overtones in your plants?

A We are very frank in our plants. We don't mind sitting there and saying I am not going to vote for that Mexican or I am not going to vote for that Anglo and our Anglo membership, we have enough rapport with one another to tell it as it is, you know.

Q Yes, sir.

A And what that says is what the neighborhood where they live is saying also. There is no question. We can produce Anglos in court that will say it.

Q Would you say in elections in Nueces County that

there is a racial anathema among the Anglo voters?

A That is right, without a shadow of a doubt. Then we are also accused of block voting.

Q Would that be a catch phrase also?

A Yes, that is right. If you look at these precincts, this is the real block vote, so you can see that since 200 years ago we have voted for Anglos against Mexican-Americans. You can see where race was not the question on the west side, but it has been on the south side. This is the real block vote.

Q Would you say that this tendency toward block voting has been heightened since the Cisneros case?

A We have not had too many crucial elections that would set a pattern in the past few years, you know.

Of course, the Nixon election could not be identified, you know. We have not had no real school board election because of the opposition. The Raza Unida candidate didn't get votes, but they did get 12,000 votes in this county, but you see, it came from not the Anglos.

Q I see. The last time this case was tried, the court commented on the language barrier, which

gives them problems in participating in politics. Do you find there are Mexican-Americans in the population that speak little English at all?

A Yes, very definitely. We also find that on the ballot that you would find a great number of people within the corridor who may vote for the Sheriff's position or may vote for Margarito Garza, because the are identifiable on the ballot. They vote for the number three or six or eight position, but they can't read the ballot and follow. The Sheriff's race has got more votes than the presidential candidate in the past on the west side.

Q Do you suppose this has caused problems and has an effect on their turnout to vote?

A There is no question that it has.

Q And in the past, there was restrictions such as poll tax and filing fees and these restrictions, did they have an effect on the vote turnout?

A Well, the poll tax shows that it was detrimental to the poor.

Q Would you say that is a residual effect of the poll tax that still remains in turnouts of voters registration?

A Many people who never got a poll tax vote and

while they have been inspired to register, somehow they have not used it yet.

Q Because they are not used to voting?

A Not yet.

MR. KORBEL: I don't think I have anything else at this time.

E X A M I N A T I O N

BY MS. LEVATINO:

Q Okay. Mr. Montemayor, I represent the State in this particular case, which is the issue of whether or not a multi-member district for the State House of Representatives operates to discriminate or offer less access to racially identifiable groups here in Nueces County.

A The multi-member district is what we have now?

Q Right, that it has a discriminative effect.

A It has.

Q All right. Now, we are talking about the school case, the Cisneros case. Let me ask you a question. The steel worker's union was quite involved there because of their people and the Mexican-American that felt the need for improvement of the schools. Was there any feeling

expressed by the white members of the union with regard to the involvement of the union in this school board dispute and the position it took?

A Yes, there was. Some of the original Plaintiffs were Anglo members, but because of my recommention to withdraw their names so that it would be Mexicano and Black, they did. Our Anglo membership feelings did not arise until the court case until the trial had begun. It arose proportionately with the same as the Anglo neighborhood of where they were members of.

Q So you are saying originally that the white Anglo members of the union didn't object to this case, but they felt it was a good case?

A That is right.

Q As it went on they objected?

A Not all of them but some of them did.

Q How -- what kind of objections did they express to you?

A Actually not too many. Because I was not attending those meetings, but they expressed their feeling toward the officers wondering if they were authorized to spend money on a case of this nature and size.

Q Okay.

A And that they would not want to bus their children. They have nothing about integration, because our relations at the plants are beautiful. We eat together and work together and go fishing together and get in the doghouse together.

Q So their objection was not so much to the fact that their children may have to go to school with the Mexican-American people, but they questioned about busing and spending of money from the union?

A That is right.

Q Do you think in your opinion the idea of taking a child from his neighborhood and putting him on a bus and sending him to another part of the city to send him to school, and for the moment, leaving aside what kind of school or percentages that would be there racially, do you think that would be reasonable for someone to not want to do that or not want to have their children bussed?

A That or anything else. They would use any excuse.

Q Leaving the racial part of it aside, and if for example, the area was integrated and if every one of the voting precincts were integrated and the living patters were such that you didn't have all Black or Mexican-American or Anglo schools and your children could go to school two blocks away,

would you prefer that in that situation?

A Well, look. I think you are referring to the neighborhood school.

Q Right.

A Also there is nothing wrong with the neighborhood school. It is best there if it is in an integrated neighborhood, but if the neighborhood becomes an instrument of separating the groups or races, then that must go.

Q And do you think that going back to the feeling of the whites in your unions, that really their feeling was not so much the issue of integration, because they work with you, and as far as going to school with your kids, didn't bother them, but were concerned about the busing?

A That is a superficial feeling. You see, when we first went into this, there was a tremendous amount of tension. We grownups learned to tolerate each other and find a common denominator that ties us together, you know, but it does not necessarily change the feeling that their children could be better off mingling with the Mexicano.

Q You say it could not change the feeling their children could be better off?

A They think their children are better off among the

Anglos.

Q You say you go fishing and socialize --

A Yes, because we have a common denominator.

Q I am talking about the group in your union, and I believe you said their objection to this school case arose from busing.

A The using of the funds.

Q Okay. That and busing?

A And their kids would be taken across town, because they moved to a neighborhood that was supposedly better to have a better school and they objected to being transferred to an inferior school.

Q Do you think that objection was based strictly on the fact that there were Mexicans in that school or perhaps that school didn't have the same courses offered or teachers as the Anglo schools did?

A I cannot put a measurement on it, but of those, the physical aspect of the school, the minority composition and the inferior curriculum.

Q In other words, your testimony is that even the whites, in your opinion, did not want their children to go to school with the Mexican-American?

A No, you remember I said a small minority.

Q So that was not an issue among the rest of them?

A Yes, among a small minority.

Q Okay. You mentioned the sequence system, which you think is not operative any more.

A I don't believe they have that system now. If I may elaborate a little bit, when we filed the case we were requesting -- during the trial it became apparent that in this change, as it took place of the school system, that the sequence system was not important because it could be worked out itself.

Q Okay.

A So then the school district adopted what they called a module.

Q Modular?

A Perhaps that.

Q Now, when the sequence system was being used in the qua ter schools, was it also being used in the white schools?

A Oh, yes. The problem was that the Mexican-American schools, it was one plan and the same on the white schools. On the record, the record shows the majority of the Anglos were placed in the higher curriculum and the small minority was placed in the lower curriculum. They had a more uniform system. It was not left up to the teachers.

Q So the implementation was different, but it was

something that was used throughout the school district?

A Yes.

Q In your opinion, do you think there is some advantage, and I am not talking about the Mexican-American versus white schools, but there is an advantage of putting the smarter children apart from those -- not apart, but in a homogeneous type grouping?

A No, I don't believe that.

Q In other words, if you think you have a child, regardless of color or race or origin, are you saying that he should not be given a special kind of treatment?

A Who is going to be the judge?

Q I am not asking about that. All I am asking about is in general educational theories.

A Let me --

Q May I finish my question, please.

Do you not think it would be more beneficial for a child, if he needs special education because of a need for his IQ being lower, do you think there is not a need for special education?

A No, not at six or seven or eight years of age.

Q Then you feel --

A Wait, I feel there is a need for eye or speech or hearing impairment teaching, but for you or anyone to judge a child at the age of six, that his IQ is inferior to the other children and condemn that child forever as an inferior mind that cannot develop as rapidly, and when you leave it up to the teacher --

Q I am not talking about condemning a child forever. I am talking about the value of special education.

A There is a value for it. I was going to use the example of the child going to school when he is five in order to learn the instructions of the teacher. There is a value to that. I think all children who do not understand English plainly enough to observe the instructions should be prepared between ages four and six so that when they go to school they understand what the teacher is saying, but not special education, but Head Start.

Q Is it fair to say that your objection to the sequence program is really based on the way it is implemented then?

A I think it is not my personal objection. I am stating the reason is because the Plaintiffs questioned the education system in this district.

Q That is what I am saying. Is it fair to say that

the objection to the sequence type of system was not to the theory, but to the way it was implemented?

A I think you could get a better answer from Doctor Carter or an expert on that.

Q I am asking you.

A I am not qualified to pass judgment on what is better.

Q But you have already testified criticizing the sequence system?

A I testified to the fact that it was one of the objections the way it was being applied in the west and south sides.

Q This is my question to you. Is it fair to say that the objection which you today have said and also said was a part of the Plaintiff's case, was an objection in a way the sequence system was being applied, but not necessarily in the existence of the system?

A Well, --

MR. KORBEL: Is your objection to the result that so many Mexican-Americans are forced to go into a situation and never go to college?

THE WITNESS: The objection to the

sequence system was the vast majority of students on the west side were placed on the lower sequence system. The vast majority were placed that way there and on the south side it was the other way around.

Q Is that a result of the way the determination of who was going into what system, this kind of thing, is that your objection?

A Well, I believe the objection was and is that we were classifying our children as incompetent to learn and therefore they were given an inferior curriculum.

Q So you are talking about the way -- well, let's move on. I am understanding what you are saying but you have not answered my question.

Now, you said that in the area south of Weber Road that there are some transfers from what has been termed the satellite area into this area.

A Uh-huh.

Q Do you have any observation or any knowledge of the response of the people in this area to the black children or Mexican-American children that have now gone to school here?

A No, I don't.

Q And you are not aware of any moves to get by the

people that live west of Weber Road to get them out of these schools?

A Well, no, I am aware of a proposal that the school board is wanting. They would like to do away with the satellite and this is the only satellite.

Q What does the school board propose to do?

A Do away with it and return to what they had.

Q There is nothing or any moves of picketing schools or saying blacks go home or anything of that nature?

A No, not to my knowledge.

Q So there is no major problem then?

A No, not that I know of.

Q Would it be fair to say that the schools in the Mexican-American corridor area were inferior schools?

A They were and still are.

Q Okay. Turning now for a moment to some of the issues regarding elections, you spoke of newspaper reports and radio reports saying that the west side was voting heavy. Were those, in your mind, true reports? Was the west side in fact voting heavy?

A In many cases, it was not, no heavier than this. Sometimes it was, but in many cases it was not.

Q Now, you testified that phrases such as Doctor

Garcia's candidate, or something like that that had you or he endorsing some particular person in these cases was racially useful as a detriment to the Mexican-American candidate.

A I speak for myself and not for Hector. We, as a union, we endorsed on the record. We have endorsed many, many Anglo candidates and we have at some times endorsed several times Anglos against Mexicanos. I can name them.

Q That is okay. Let me ask you this then. Is this generally known that you are politically active in the union?

A Definitely.

Q Would it be fair to state that the endorsement that the union gave would be the union endorsement and also your personal endorsement?

A No, we have an endorsement that is made by the legislative branch.

Q So you would not be the person selecting that endorsement?

A No.

Q Okay. Is it not true that a number of Mexican -- first, let me ask you this. What is the percentage of Mexican-Americans in this multi-member district?

A The last figures given by the school district --

Q No, what is the number of Mexican-Americans in the multi-member district --

A People?

Q Yes, people.

A Well, the figures are, I believe, that it is 48 percent Mexican-American.

Q Okay.

A And some say 46 and some say 50.

MR. KORBEL: We will stipulate that the census figures for Nueces County show 43 percent. Corpus Christi is 47.58 percent.

Q (Ms. Levatino) Do you accept that figure?

A I accept it.

Q Would it be possible for a candidate running in Nueces County, to win an election without some support from the Mexican-American community?

A Give me the question again.

Q Would it be possible for a person running for the legislature to win without some Mexican-American support?

A Yes.

Q Why do you say that?

A The percentage.

Q In other words, you are saying that he could win

without one Mexican-American vote?

A Yes, the registration is heavy among the Anglos.

Q Do you know of any candidate for the legislature or for a local race that has won a vote without the showing of the Mexican-American voting?

A No, I don't know that. We vote more for Anglos, and the record shows that, than the south side voted for Mexican-Americans.

Q You had a number of candidates elected to legislature and city and county offices, did you not?

A We have had two Mexican-Americans who were elected to the legislature in my lifetime that I know of. It has happened in the past ten years.

Q How many others have run, in your recollection?

A I will have to refresh my memory. Gonzales, Chapa, DePena, several.

Q But you have elected two within the last ten years from this community?

A Not at the same time, but two have served.

Q And you presently have one Mexican-American in the legislature?

A One.

Q And have you had a delegation that had no Mexican-American in it in the past ten years?

A I believe the last ten years, I believe we had one.

For two years we didn't have one.

Q For one term within the last ten years?

A I believe so, but I am not positive. I can't remember what year Tony got elected.

MR. KORBEL: '64 -- '60 through '64.

THE WITNESS: Since '60 up to this time, we have had two.

MR. KORBEL: We will stipulate there have been four terms served by Mexican-Americans since reconstruction in this county and all of them have been since '64.

THE WITNESS: That is right.

Q (Ms. Levatino) Now, in terms of Mexican-Americans holding city and county positions, you have to assume that they were --

A Yes, in the past six years, but prior to that, Maldonado, who was the first one, and before that, approximately fourteen years ago -- he is deceased now. Gabe Lozano, who is now serving and then Doctor Bosques, Tom Gonzales and Richardo Gonzales.

Q You also have Mexican-Americans serving as county officers?

A In the past six years, yes.

Q And as County Judges?

A Yes.

Q And also as County Commissioners?

A There has been one County Commissioner in this history.

Q Is that Ortiz, the present one?

A Yes.

Q But you do have Mexican-Americans that have run and become active in politics, that have run and some have been elected and some have been defeated is that correct?

A We have one, two, three, four county-wide elections, but prior to that we had Flores in the past six years and we have had some. Ten years ago we never had nobody.

Q But they have been involved in the electoral process?

A We have always been involved, but never selected, or seldom selected.

Q You mentioned the Raza Unida putting up a school board candidate and they were defeated?

A Yes.

Q Do you recall the margin of defeat?

A It was pretty good.

Q Did the Mexican-American vote for their candidates there?

A Not enthusiastically. I would not use that as a

pattern.

Q Okay. You mentioned the language barrier, which many Mexican-Americans do meet in reading the ballot.

A Correct.

Q You mentioned the Sheriff's race, and the Sheriff's race will have more vote interest than the president, is that true?

A Yes, I used that for an example.

Q Would it be fair to say that many people can't identify with or have many dealings with people such as Sheriffs or local races?

A No, I think the Mexican-American people have more identified with the Sheriff because there are more arrests among our group.

Q So they are concerned about who is going to be Sheriff and that is a real concern?

A Personally, I don't, but a vast number of our people in the past have put a lot of emphasis on the Sheriff's race.

Q So would you say another reason there is a very high turnout in the Sheriff's race is that because of their interest in the race?

A No, that race is or has been the race that inspired the local people and the ignorance is always

that nobody is telling us what legislators meant to us, but the Sheriffs down here interpret the laws they put in.

Q So they want to know who that Sheriff is that is going to be there?

A Yes, they maybe know who John Harney was and after many years that is a household word. I might say that it has improved, but very little, but it has improved.

Q Have you had much contact with the legislative delegation from Nueces County?

A I am not one who visits with them regularly. I would say this, the closest I became in contact with them and representation here was when I was lobbying for A & I University of Corpus Chriti.

Q Did you ever personally have a dissatisfaction with the votes and representation of the philosophy of anyone or all of the legislative delegates?

A Only on some issues.

Q What would those issues be?

A For instance, when -- it is very seldom that you vote on a clear issue, such as bilingual education. That was clear.

Q And they did vote for that?

A Yes.

Q Okay.

A But the resolution passed by the legislature on the busing question, Carlos Truan is the only one that stayed, or let's say that was for integration at the expense of busing and the rest of them signed the resolution for no busing.

Q Did you ever express your dissatisfaction to them?

A No, I don't chastise the delegation because they don't vote the way I think is proper. I express my opinion when I vote.

Q Outside of the busing resolution, what other issues have you been dissatisfied with?

A Well, if you look at our delegation, they have been gung ho for the teachers or gung ho for the appropriations for this and this, but nothing for reforming the system.

Q What do you mean?

A I mean reforming the system. Reforming means to change the matter, you know, to adopt new methods of education.

Q Do you think the institution of bilingual education was a step forward?

A Yes, it was a step forward.

Q Providing for facilities for adult education?

A Bilingual education is good for all children, I

think.

Q I am trying to get at --

A And the appropriations, if you have that without the funds, it is doing nobody any good.

MR. KORBEL: I am going to object here. I think it is clear that he does have some objection to the way the legislative body voted and it is difficult to go down the roll call and you just can't pick out things from it. You would have to be on top of it to answer a question like that. I object to it because it is repetitive.

MS. LEVATINO: Well, I am going to continue.

MR. KORBEL: Fine.

Q (Ms. Levatino) Can you pinpoint any other types of issues that come before the State legislature where you feel your delegation has not represented you or the Mexican-American the way they should have or you would like for them to?

A Well, another issue was -- I believe the sales tax.

Q I don't believe they voted for the sales tax.

A To the best of recollection, I believe they did.

Q I believe maybe they did subsequently.

A I believe they did in the beginning. You see, I am testifying under oath, and you asked me to say why I don't think these people are representing the interests of the Spanish people.

Come next election, I may still be for them, but I may testify that I don't think they are the best. This is why I am reluctant to pinpoint what I personally think as far as the votes they gave us didn't represent the minority that I happen to be a member of.

Q I understand that and you are aware of the issues of this, whether or not it has given adequate representation, whether or not the people have been given adequate consideration to the viewpoint of that minority. As you are here as a spokesman for the minority, this is the reason these questions are being asked.

I understand your position and I do think you should know why these questions are being asked.

A By the same token, I could ask the State if the Mexicanos have voted differently. You see, the question should be if the Anglo representative voted right, so can the Mexican-American not vote right if they had a chance of getting elected or

a fair chance of it. Under the present system, the way we elect our legislators, I don't think we will have another one and if I were to predict, I would say that he would not be re-elected.

Q What was the name of Representative Truan's opponent this last election?

A I know him, but I can't think of it right now.

Q Was that an Anglo?

A Yes.

Q But Representative Truan did win?

A Yes. He just barely did, but he did.

Q But he did win?

A Yes.

MS. LEVATINO: Okay. That is all I have.

MR. KORBEL: I have a couple of questions.

R E - E X A M I N A T I O N

BY MR. KORBEL:

Q The first time Representative Truan was elected, the multi-member district was not the issue as it is now?

A No, it was not. He came from Kingsville.

Q And that is where he grew up?

A Yes.

Q There is a substantial university population there?

A Yes.

Q And that was in 1968?

A True.

Q Do you have any knowledge of the number of Anglos who normally vote in the primary who refrain from voting to sign the Wallace petition?

A It was a substantial number, but I don't recall.

Q You say there is a chance Representative Truan will not be re-elected. Is that because of the shape of the district and because of the racial polarization?

A Racial polarization, and that is an issue. Busing was made a racial issue of the last city election.

Q Has there ever been a Mexican-American mayor of Corpus Christi?

A No, sir.

Q And the first commissioner was elected in 1968, is that right?

A Ortiz, I believe that is correct.

Q Would it be fair to say that on one hand you could list the number of Mexican-Americans who have been elected county-wide in Nueces County?

A Yes. I might also offer this. Out of this con-

gressional district, up to the last national election, there had never been a Mexicano elected to the National Democratic Party. Some had been appointed, but not elected.

Q What is that sir.

A A delegate to the National Convention.

Q I have a couple of questions concerning the party system in Nueces County. Is Nueces County a one-party town or is it a two-party town?

A I think it is moving toward two parties.

Q In the county elections and the state elections in this county, have there been any Republicans --

A There has been some, but they have not run as Republicans.

Q If a young person came to town and wanted to be elected to the state legislature, would he want to run as a Democrat or as a Republican?

A His chances would be for the Democrat.

Q Which of the two, Mexican-Americans or Anglos would have the grestest chance?

A The odds would be on the Anglo.

Q Now, before she was talking about the sequence system in the education system and your objection to that as being because so many Mexican-Americans were being discriminated against by the sequence

system.

A The objections are presented by the plaintiffs to it. You see, my children have attended parochial schools, so they have not attended any public school system at all.

Q Now, I am going to refer to Plaintiff's Exhibit 2, and on that Exhibit there are some red lines. Would it be fair to say that those red lines represent the commissioners' precincts?

A Yes, I believe those are.

Q These would be the commissioners' precincts?

A Yes.

Q And number 3, would be Ortiz?

A Yes.

Q And if we overlay this Plaintiff's Exhibit 2a on the commissioners' precincts --

A Well, it would be right here.

Q I see. And it would include this over here, Bishop and Robstown?

A Correct.

Q Do you remember when the reapportionment took place?

A I think it was in '67, just prior to Ortiz running.

Q And under the previous system, no Mexican-American had ever been elected?

A Right.

Q It was only as a result of reapportionment that a Mexican-American was elected?

A Right.

Q Do you have an opinion, if we were to divide the multi-member district into three parts, would it be less expensive to run for the legislature as a candidate?

A Yes.

Q Why would that be?

A He doesn't have to concentrate county-wide. He can walk his district and he can knock on the houses and it won't be as expensive. It would create more interest too.

Q Would the endorsement --

MR. KORBEL: I don't have anything else.

THE WITNESS: I want to offer one thing. It depends on what method they are going to use to divide it. There is a way to divide them where the poor won't have any better chance than they have now.

A (Mr. Korbel) But, for example, if a system was devised which would not fragment this situation, would you say the individuals would have a better chance to run?

A Another thing, you see, this part of town --

(Ms. LEVATINO) For the record, you are pointing to what?

A Annaville and Calallen. Was pushed over to Leroy Whiting from San Patricio. The vast majority -- and in this vast area of Portland -- well, what I am trying to say, these people over here don't necessarily have someone who represents their interest. The minority within Leroy Whiting's district, it was San Patricio County, plus Aransas Pass plus another county, three in all. I believe this is where these people are not going to get their representation like they have coming. I am not speaking about Mexican-Americans and I am not speaking of poor necessarily either. Many of the management people live in that area also.

MR. KORBEL: I have no further questions.

MS. LEVATINO: I have just a couple.

R E - E X A M I N A T I O N

BY MS. LEVATINO:

Q Would you say that while there may be certain issues, especially economical issues, that may be coming up and others may be coming up in the state

legislature, that the entire area of this map, Plaintiff's Exhibit 2, also have in common -- in other words, what might be called Corpus Christi issues that are all concerned about that?

A As an illustration, the most recent was the A & I University. This was the thing that brought the community together.

Q Are there some issues that would come up that would affect the whole area?

A Right.

Q Okay. Now, you also mentioned that it would depend if you went to the single-member district, it would depend on how the lines were drawn. If a line was drawn that included the rural county area that made up the district with some of the city, where there was not a lot of people, would it be fair to say that the candidate in that area would have a more difficult time in running?

A The most fair would be the census strike.

Q If such a district was created that had some city population, some rural area also, would it be more difficult for a candidate to compaign door to door in that kind of district?

A Perhaps. But we have a legislator elected from Kleberg County that came to Nueces County. We now

have a judge --. I say, naturally, if an area had a lot of rural area, it would be more difficult to knock on farm doors two or three miles apart and more difficult than it would be house to house in a city block.

Q Would you say, what has been referred to as the corridor area, would you say there is a high intensity of population?

A Yes and so would this and some of this have a high intensity.

Q For the record, you are talking about the south part?

A Yes, this would be for -- all of them have about the same equally. This man goes to Calallen and this man goes to Banquete, and this man to Bishop and this man to Flour Bluff and that area over there. It could be balanced equally.

Q If a district did have a share of countryside, the more he had, the more he may have to depend on somebody to get to the people other than the door to door, the more area he had to cover?

A He would have to adjust himself to the composition of the population.

MS. LEVATINO: No further questions.

MR. KORBEL: Nothing further.

(SIGNATURE WAIVED)

THE STATE OF TEXAS |
COUNTY OF NUECES |

I, RONNIE VERNON, a Notary Public in and for Nueces County, Texas, do hereby certify that the facts stated by me in the caption hereto are true; that the foregoing deposition of APOLONEO MONTEMAYOR, the witness hereinbefore named, was at the time named taken by me in stenograph, the said witness having been by me first duly cautioned and sworn upon his oath to tell the truth, the whole truth, and nothing but the truth, and later transcribed from stenograph to typewriting by Gail Duncan.

I further certify that the above and foregoing deposition as set forth in typewriting is a full, true and correct transcript of the proceedings had at the time of taking said deposition.

I further certify that I am neither attorney or counsel for, nor related to or employed by any of the parties to the action in which this deposition is taken, and further that I am not a relative or employee of any attorney or counsel employed by the parties hereto, or financially interested in the action.

WITNESS MY HAND this the ____ day of _____, A.D., 1973.

_____
RONNIE VERNON
Notary Public, Nueces County, Texas

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF TEXAS
AUSTIN DIVISION

WHITE	
VS.	CA NO. A-71-CA-143
REGESTER	

A P P E A R A N C E S :

MR. GEORGE J. KORBEL
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COUNSEL FOR DEFENDANT

Deposition and answers of DR. HECTOR P. GARCIA, who resides in Nueces County, Texas, taken herein by the Counsel for the Plaintiff, before RONNIE VERNON, a Notary Public in and for Nueces County, Texas, on the 27th day of November, A.D., 1973, between the hours of 5:30 p.m. and 7:20 p.m., in the offices of DR. HECTOR P. GARCIA at 1315 Bright, Corpus Christi, Nueces County, Texas, in accordance with the following stipulations and agreements:

IT WAS AGREED by and between counsel for Plaintiff and Defendant in the above numbered and styled cause that all formalities, including issuance of notice, are waived specifically, and that the oral deposition of DR. HECTOR P. GARCIA, may be taken herein forthwith before RONNIE VERNON, a Notary Public in and for Nueces County, Texas, said deposition being taken with the same force and effect as though all requirements of the statutes and rules had been fully complied with.

IT WAS FURTHER AGREED that no objections need be made by any party at the time of taking said deposition; except objections as to the form of the question and leading questions or the responsiveness of the answer; but if and when said deposition, or any portion thereof is offered in evidence on the trial of this cause by any party hereto, it shall be subject

to any other legal objections, such objections to be made at the time of the tender, the same as though the witness were on the stand personally testifying.

IT WAS AGREED BY AND BETWEEN COUNSEL and the witness, that the signature of the witness hereto is waived.

IT WAS FURTHER AGREED that after said deposition has been returned into court in accordance with these stipulations and agreements, it will be treated by the parties hereto and may be used herein with the same force and effect as though all statutes and rules relating to the taking and returning into court of depositions had been fully complied with.

DR. HECTOR P. GARCIA,

having been first duly examined, cautioned and sworn upon his oath to tell the truth, the whole truth, and nothing but the trust, testified as follows:

E X A M I N A T I O N

BY MR. KORBEL:

Q Would you state your name and address.

A Hector P. Garcia, 1315 Bright Street, Corpus Christi, Texas, Nueces County.

Q Is that located within the Nueces County multi-member district?

A Yes.

Q Are you a doctor of medicine?

A A general practice doctor of medicine.

Q I am going to show what has been marked as Plaintiff's Exhibit 1, Garcia, and ask you if you can identify that, please.

A Yes, sir.

(The above mentioned document was marked as Plaintiff's Exhibit 1, Garcia, for identification.)

Q What is that?

A Testimony that I gave as a witness at the Cisneros school case, known as Cisneros versus Corpus Christi Independent School District and it is on school segregation.

A Was that in 1970?

A I believe so.

MR. KORBEL: We would offer that in evidence, or maybe I should ask one more question of you.

Q (Mr. Korbel) If I asked you questions in this testimony, would your answers to those questions be approximately the same?

A Yes, approximately the same way.

Q There would be no material changes of the facts as you gave them at that time, is that correct?

A No, I would say generally so. It is not so long that I would not remember it.

MR. KORBEL: We would offer that in evidence as Plaintiff's Exhibit 1.

MS. LEVAINTO: No objection.

Q Dr. Garcia, have you been involved in encouraging Mexican-American political involvement throughout Texas in the past years?

A I have encouraged political participation in Texas

for at least twenty-six years and also throughout the United States.

Q Why have you been doing that?

A I feel basically, after coming back from World War II, that Mexican-American people were excluded almost totally from participating in the American system of government by exclusions and restrictions.

Q Have some of those prejudices been overcome involved in the government -- have some of those been overcome?

A I would say first that the prejudice and hate and feeling toward the Mexican-American has not been overcome. In fact, some times I think it is worse and as far as results of my activity in trying to improve the political situation, it is better, but the price has been heavy in my own way of thinking. If this is a democracy, then it has been a completely unnecessary to accomplish the objectives we have now accomplished.

Q You would say that they are still the same?

A I would say very little change since twenty-five years ago. I would say the school, government and individual has failed in trying to establish the area generally in getting from their heart to stop their hate and prejudices against us.

It is still there.

Q Would that be true in Nueces County?

A Throughout the nation and state and Nueces County.

Q Would you describe a majority place system in the state in the last several years?

A Since I started participating in politics.

Q When was that.

A 1940 is when I returned from World War II.

Q What has been the sum and substance of those conversations and conclusions that you drew?

A That the place system, as I call it, was set up to continue the exclusion of the Mexican-American in governmental and political activity. It was a continuation of the original feeling. By that, I mean that we had a previous system, and although we had only made token progress, yet this was all too much for the establishment and they set up this system of the place system.

Q Are you talking about with relation to school boards?

A Anywhere. First, we got involved in school systems and it was set up to stop us there at the request of the establishment. This would be any place.

Q It has the effect of diminution of the Mexican-American participation?

A It has two effects, one by limiting the Mexican-American success in being elected and secondly the participation by frustration of the changes of the system.

Q Was this majority place system -- does it discourage the voter, does it discourage the candidate?

A Yes, it does.

Q How does it do that?

A You will have one Mexican-American running against an Anglo that was hand chosen by the system and in the city and county and state, as it ends up, it is one for one vote, but we never have that one vote and we have no more representation than we had previously. The only reason, in the beginning, we were able to move fast, and they fell down in a cavalier-type feeling that they owed us one man, or perhaps one woman, a minimum amount of representation in those boards.

Q So it would be benevolence of the Anglos toward the Mexican-Americans that would be giving you places?

A It would be the cavalier attitude. It is a feeling of guilt, which I don't think they possess. It is a feeling of fear that someone, not us, would

criticism them. The end result is that if they wanted it today, we would not have a single one to represent us.

Q Are you talking about Nueces County and Corpus Christi Independent School District?

A In this case, yes, and other related counties and area.

Q I am going to show you what will be marked as Plaintiff's Exhibit 2, Garcia, and ask you to identify that.

A This is a political advertisement that was placed in the Corpus Christi newspaper on April 5, 1962, in relation to a special election. It was on Del Mar College board, and this was sponsored by supposedly some of the outstanding Anglo-American leaders of this community, at least two of them and perhaps three have served on the school board previously.

(The above mentioned document was marked Plaintiff's Exhibit 2, Garcia, for identification.)

Q Can you describe what the article provides?

A Yes, I remember it, because I protested this type

of article at the Del Mar Board of Regents meeting later while they were supposedly canvassing the votes in a hurry, as they always do when they know they have done something morally wrong and legally wrong and I have a copy of the newspaper where I protested this. This is what you call a type of political advertisement in one of the worst type of race participation that I have had the sad experience of ever seeing in this country. What surprises me is that they do admit their feeling toward us, to quote this gentleman here, it says "already some Anglo voters are retaliating by refusing to vote for any candidate who has a latin name."

It is misleading and deceitful and a lot of it is downright lies. You have to understand and realize that this article was put ahead of the election with the --

Q Was it placed in the paper prior to the election?

A Yes, on April 5th. And at this time we had only one Mexican-American college board member and we were trying to get another one. We had a highly qualified man to run for this post so that we could achieve, out of three places, we could achieve one more. We ended up by having two out

of seven board members.

Q The sum and substance of this article is that Mexican-American people are entitled to one board member, but should not ask for another, is that right?

A Yes, that we should be glad to get one on the board and not ask for another.

Q Would you say at the time of the election that represented the feeling of the Anglo voters in Corpus Christi?

A I would say in 1962 this represented their feeling of hate toward us, of prejudice of the fact that we were not considered the citizens of this state and community and therefore we should not think of running for positions like this and we were being treated as inferiors and, as I said, three out of those, Gandy, West and one other were past board members.

Q These are leaders of the Anglo community?

A They were the cream of the Anglo community, yes.

Q In 1962 was not long ago. Would you say that same feeling prevails today, that Mexican-American people should not be represented?

A I would say it is the prevailing feeling of the community as expressed time and time again by its

leadership. It is that feeling that we should not have more than one member of the school or college board. This is close to the physical contact. It is a contact of those poor Mexican children getting contact in the public schools with the well-to-do.

MR. KORBEL: I am going to offer this.

MS. LEVATINO: I am going to object to it on the grounds of hearsay.

Q Is this a clipping, and I am referring to Plaintiff's Exhibit 2, is this a clipping which was taken from your files?

A Yes, a photostat of this clipping here.

Q And you have the clipping here?

A Yes, the original, yes.

Q And they are the same?

A Yes.

Q I suppose this was clipped from the paper at your request?

A Yes.

Q Did you do it yourself?

A I don't know, but surely it was done at my request.

MR. KORBEL: We would offer it subject to the objection.

Q (Mr. Korbel) Now, during your time in Corpus Christi, especially since --

A Excuse me for a moment. I am not an attorney, but you question this article. I thought perhaps you would become lucid and like to see this paper in its entirety, and here is the article in the back, so as I said, this is --

MS. LEVATINO: Off the record.

(Discussion off the record.)

Q (Mr. Korbel) During the time you have been involved in living here in Corpus Christi and have lived here, have you received hate letters and phone calls and that type of thing?

A Since I started participating in what I considered improving citizenship and trying to improve the status of poor Mexican-American people, I have received threats to my life and family, insulting letters and many other things to the point first that for many years that I have had to have an unlisted telephone only available to the hospitals and I have never had on my car the emblem of the doctor of medicine. For the same reason you noticed on the doors on the front of the office that I have bars and I have triple locks on the doors, not that I am afraid, but I don't want to take a

chance.

Q And most of these letters have come from Nueces County?

A All over the state, but the majority of them from Corpus Christi and Nueces County.

Q And would you get more of these when you testified, for example, in the Cisneros case, did you tend to get more then?

A I think the Cisneros case brought me a lot of this type of letters and calls more so, with the exception of the Three Rivers case.

Q Would you explain that?

A Felix Longoria, who was a World War II fighting man, got killed in the Phillipines. The owner of the Rice Funeral Home in Three Rivers said that he would not let the family use their chapel to give services to Felix Longoria, because "the whites won't like it", and he said -- and we appealed to Senator Johnson and others and we buried him in Arlington National Cemetery.

Q Three Rivers is not a part of Nueces County, but is close?

A That is right.

Q Now, have you been -- throughout the years, have you followed the letters to the editor column in

the Corpus Christi paper?

A Yes, in the newspaper, yes.

Q In your opinion, would those letters to the editor indicate a bias, an Anglo bias against Mexican-Americans?

A Not only the letters, but I think some of their editorial staff also and bias is there.

Q Is this an overt or subtle thing?

A I would say overt.

Q And I imagine sometimes subtle?

A The ones against me sometimes are overt.

Q Do they complain against you as being a participant in racial activites?

A The best or most expressive feeling or colorful language, any time we protest anything, well, hell, why don't you go back to Mexico or why don't they go back to Mexico. This is the general feeling that we were not considered citizens of this state and nation.

Q We have discussed ads which tend to indicate a racial bias in the Del Mar College election in 1962. Do you find racial tension impacts in today's elections?

A Yes.

Q Could you explain those?

A Well, of course, the way has been subtle, not like before.

Q Nothing has come out like this Plaintiff's Exhibit 2 since then?

A No, sir. In the last election, we were shown a sideshow to the big circus in town of them in town.

Q Do you mean the Corpus Christi school case?

A No. I think the Corpus Christi community is typical of the state. They think what they do is funny. The funny thing is that it is funny to exclude Mexican-American people. They get their kicks like that, so consequently the last city election, they pulled the usual thing, the whispering campaign.

Q Can you describe that?

A They would get on the telephone and not only that, we have some letters, and in this case we are trying to take over the city government. We were trying to run the schools and trying to run whatever we run in trying to get control of it and this is done by Doctor Hector Garcia and you don't want another Mexican and what is the city coming to.

Q Now, they call on the phone and talk to people,

is that right?

A This is put in the paper also. They send out letters as well.

MR. KORBEL: Would you mark this.

(The above mentioned document was marked Plaintiff's Exhibit 3, Garcia, for identification.)

Q I am going to show you what has been marked Plaintiff's Exhibit 3, Garcia, a deposition, and I was wondering if you could identify that?

A Yes, this is a copy -- the first part here -- a copy of a spot or spots that was passed on the city election that I have referred to on Saturday, May 22, 1971. This copy I went myself to KRYS radio station and got a copy of it, because this spot was being passed, as far as I could determine, through other radio stations every three to four minutes over the city. This spot was placed several times and we had it stopped. The spot said this -- now, this you understand, this is on election day.

Q Yes.

A "Have you voted today? Surveys from 16 polls on

the west side of our city show that an unusually large number of people representing labor unions are voting in today's city runoff election."

The west side, that is the Mexican side.

Q Is that generally referred to as the corridor section?

A Yes, and west of the corridor. "Surveys from 16 polls on the west side of our city show that an unusually large number of people representing labor unions are voting in today's city runoff election. The county right now already exceeds the number who voted May the 1st. By contrast, on the south side of our city, the vote is very light and there were no lines at the polls. The steel worker's union that is helping to turn out this vote is the same group that sponsored the school busing case. You and I owe it to ourselves and our children to take a few minutes of our time to go vote so these special interest groups will not have the opportunity to improperly assert their influence on the school busing issue effecting our entire community. A little effort now can decide this election." This statement was paid for by concerned parents, Michael Kendrick, organizer.

Q I want to ask a couple of questions. We had testimony earlier this afternoon from Mr. Paul Montemayor that certain catch words were being used to appeal to the racism of the Anglo voters, and those catch words would be such as the school case and busing and that type of thing. Would it be your opinion that this is an appeal to the racist voting tendencies in the southern part of Corpus Christi?

A Yes, I would definitely say yes. This is a run-off and I can show you here that there are letters sent out to all of the voters at the first election and they were vicious. The labor people are mentioned taking over. They say there for instance that I told my nephew, who was running for the city council that if he would enter, I would take over the city government. This is a downright lie, but also --

MR. KORBEL: Would you mark these, please.

(The above mentioned documents were marked Plaintiff's Exhibits 4 and 5, Garcia, for identification.)

Q Are these the types of letters you are talking about?

A I would say this is some of them. This is, I believe, on Saturday May 22nd, and this is for the city and this other one is for the school board.

Q I am going to tender Plaintiff's Exhibit 3 with these questions. You yourself heard this being played over KRYS radio?

A I heard it, yes.

Q And you went down and asked for a copy of it?

A I, myself, yes, sir.

Q And you are satisfied this is a correct represen tation of what was being played over the radio?

A Yes.

MR. KORBEL: I would offer Plaintiff's Exhibit 3.

MS. LEVATINO: We have no objection.

Q Now, this ad which states that the west side is voting heavily and appealing to the south side, is this typical of the thing that goes on in elections in Nueces County?

A Yes, it has always been the case. As far as I remember, the newspaper and the radio, every race there is a Mexican-American in the race, it says the west side is voting heavily.

Q But they weren't voting heavily?

A No, it was a damn funny thing. I didn't mean to laugh.

Q This is a type of thing that goes on when Mexican-American candidates run, but it doesn't go on when no Mexican-American candidates run?

A No, sir, it does not.

Q I am going to show you a couple of more matters and have them identified to get them in the record. I will show you --

MR. KORBEL: Would you mark these.

(The above mentioned documents were marked Plaintiff's Exhibits 6 and 7, Garcia, for identification.)

Q I show you what has been marked Plaintiff's Exhibit 6, Garcia, and Plaintiff's Exhibit 7, Garcia. Can you describe what they are?

A Exhibit Number 6, this is a letter sent out by the mails entitled "It could be later than you think."

The letter was written on the school election of April 1st, I believe in 1950.

Q I think that is what we determined earlier today.

that it was in 1950. Can you identify what they are, sir?

A Yes, sir, this is a letter dated the first election and again making a reference to the fact that they are running three Anglos.

Q Who are they?

A The establishment, the Anglos, in the community, are running supposedly three of the members, Moody, Mills and Gilliland for the school board election. It mentions the fact that -- it states here that Doctor Moody, Mr. Mills and Mr. Gilliland should be accorded re-election to a second term, which their services and experience so richly merit, without opposition, and especially without opposition predicated on a racial basis." It mentions the fact that "our Latin American friends have had one of their own race on the school board, as is frankly agreed by all fair thinking people that they should have, however, this present Latin American member still has two years to serve on his current term and naturally it was thought that our Latin American friends would make no attempt to put an additional member on the school board at this time, and certainly not for the specific purpose of attempting to defeat an ex-

perienced Anglo-American member for a second term." It mentioned again "for in the March 17 issue of the Latin American publication "La Verdad," which designates itself as the official organ of the GI Forum, headed by Doctor Hector P. Garcia, there appeared on the first page of said publication a strong endorsement of Oscar Phillips as a candidate for the school board, imploring all Latin Americans to cast a vote for him."

Q Was Oscar Phillips an Anglo?

A He was an Anglo name, but I would say whatever the motivation of this family, they were considered to be Mexican-American.

Q Was he dark skinned?

A Not necessarily. He was perhaps like yourself, he was not dark.

Q But he was considered a Mexican-American?

A He lived with us and always lived in the Mexican-American part of town and he was considered a Mexicano.

Q Continue.

A This is important, because what this is trying to tell us here is that in the first place what they say about a member of our race, to let the voters know that Oscar Phillips is not an Anglo. This

they succeeded in, because they said this. "We feel that it is most unfortunate when a few members of any race seek to gain step by step control of our public institutions, and especially such control of our free public schools."

Q At that time, there was one Mexican-American on the school board?

A Yes.

Q So if he had been elected, you would have only had two?

A Right.

Q So you would not have control of the school board?

A No, there are seven now.

Q Now, was Oscar Phillips elected to the school board?

A The result, as published by the newspaper, indicated at one time that Oscar Phillips lost by 250 votes, if my memory serves me right. Then we started checking on the matter and we believe that some votes were lost after they were cast so by the time they had their canvass, Oscar Phillips only lost by 75 votes and we found out there was a discrepancy. The first report was that Oscar Phillips lost by three or four hundred votes. I want to correct the first figure that I

gave you, but by the time the canvass was done, at two polling places, I believe at Lamar was one, they admitted that they failed to count two hundred votes or so.

Q Would that be located in this quarter area?

A Yes, it was one block from Oscar Phillips home. They finally admitted 73 votes beat him and we were not satisfied with this and we filed a suit concerning this and appealed it to the governor to step in. They refused to intervene and they gave me a lot of static. We took it to court and we could prove, and they admitted taking a lot of votes home and not counting them, but nobody ever prosecuted them.

Q What was the final result of your election challenge?

A The judge ordered a new election.

Q What happened then?

A Before the election, in this number 7 exhibit here, and as I called them, the animal clubs, which include the Lions Club and the others, put out or signed this exhibit number 7.

Q Did the GI Forum sign that letter?

A No, sir. As you asked me, the end result was that although we got the election, everbody knew

Oscar Phillips was a Mexicano, and we got beat.

Q You testified this is an example that went on in 1950, but this goes on today?

A Yes, in '73.

Q Would you say the Anglo voters tend to vote along racial lines primarily because and simply because they are Mexican-American?

A I would say yes. This is not only my feeling and contention, but it is also brought out by Edgar Tyson, where they say again that they would not vote against a candidate who has a Spanish surname. This is their own statement.

Q You are referring to the Del Mar College ad?

A Yes, this is their statement. I would say the same thing as there.

Q You have examined the Nueces County election returns for the last several years, especially the ones in which Mexican-Americans have run and you have studied them?

A Yes, I have. Let me quote to you again, it says "Inevitably, this process, if continued, will pit race against race. Already some Anglo voters are retaliating by refusing to vote for any candidate who has a Latin name."

They vote against anybody who has a Latin

name.

Q Based upon your knowledge of the county and the elections over the past last period of years, would you have a percentage of Anglo voters who tend to cast votes along racial lines?

A If it was Anglo pitted against a Mexican-American, I would say today in this county that 85 percent to 90 percent of the Anglos would vote against the Mexicano because of his name.

Q In a matter of equal ability, is that correct?

A No, my figures are given to you on any race where you have a highly qualified Mexican-American running against an unknown Anglo who is not known and he automatically receives 85 percent of the vote of the Anglo. If the Anglo has qualifications and the Mexican-American has qualifications, this runs to 90 to 95 percent. Then this is my personal feeling and observation.

Q And you think the election returns bear you out on that?

A Yes, I would say so. It is a block voting against Spanish surnamed people. If it is one by one, it is a different thing.

Q Now, Doctor Garcia, turning again to the school board issue --

MS. LEVATINO: Are you going to offer these?

MR. KORBEL: Yes.

MS. LEVATINO: What is the purpose, to show discrimination?

MR. KORBEL: Yes. I will offer these in evidence, 6 and 7.

Q (Mr. Korbel) Now, was there a time when the school board was elected on the "Solamente" system?

A Yes, sir.

Q In other words, you could single your votes and get elected?

A That is right, because we didn't have any representation of any board and under this system we could never achieve control of the board, so we would have a spokesman for us to keep them honest, so we went ahead and had to do the "single shotting" as we call it, to give us representation on boards.

Q How many school board members did you elect then?

A We had two.

Q Did there come a time when the school board changed this method to a place system?

A Yes.

Q Under that system, which is the same type of system used to elect state representatives, how

many school board members do you elect now?

A One. We will be able to elect one under the system. The establishment says one and we can have one and that is all.

Q But they let you have one, is that your testimony?

A Yes, we ended up by having one.

Q Shortly after you began to have success in electing members of the school boards in Nueces County, was there legislation enacted in Austin?

A Yes, we started working this thing in Robstown also and after we elected one, if I recall right, to the board, or two on the single shooting system legislation was introduced after the '50s to set up a place system in Robstown and it was introduced, and I don't remember by who, but it was from this county, and it was to keep us from having a minimum representation. I would say from my feeling on this matter that the place system in Texas did not start -- started rather prior to 1950, but as far as getting its momentum to keep the Mexican-American from having representation on the school boards in Texas.

Q Would you say, in your opinion, as a long time political observer, that the multi-member district with the majority tends to dilute the election

of the members of the Texas State House of Representatives?

A Yes, it does. We got the same thing again. We end up by having no more than one, and this is practically at their mercy as it is today.

Q Now, in your opinion, Doctor Garcia, what effect has the multi-member system placed or had on the Mexican-American political success throughout Texas in school board elections and state and county elections?

A I didn't hear the question.

Q In your opinion, what effect has the multi-member system had on the Mexican-American potential for political success in Texas?

A The most it would -- it would give us only token representation at the most. I would say this again. We would be at the mercy or the consciousness of the establishment in this state.

Q Doctor Garcia, I would ask you a couple of questions to qualify you for these opinions I have been asking you about. You have been involved in campaigns for various elective bodies throughout Texas, I suppose, since 1946, is that right?

A Yes, I supported candidates for governor and lieutenant governor, Anglos and Blacks and Mexican-

Americans.

Q And you have been a member of various commissions and study groups which study the effect of elective systems on Mexican-American people?

A I am a member of the U. S. Commission on Civil Rights, Texas Advisory Committee through the United States Commission of Civil Rights. I have been a member of the Democratic Communities, state and national wide in dealing with these problems. I have given testimony on these.

Q Based upon that experience and your experience statewide and in Texas, do you consider that the multi-member majority with the majority runoff and a place system imposes a burden on Mexican-American people in running for political offices in Texas?

A It poses a heavy burden on this type of setup. It is very hard, although a physical burden, and also a financial burden, because you see, for instance, you are running, say countywide for a place, are you not?

Q Yes, sir.

A You have to try to influence all of the voters in the county. If it was a district or surrounding county, then this is a financial and physical burden, so being that we are rather poor Mexican-

American people in this case, so consequently it is a devasting obstacle.

Q In the past, Texas has utilized the poll tax and large filing fees for offices and long residency requirements in order to vote and any number of other devices, which have been declared unconstitutional. Do you have any opinion as to whether or not these devices had an effect on the Mexican-American participation in politics in Texas?

A Yes, they were harsh requirements and expensive especially that we had to pay to vote.

Q Did they diminish Mexican-American participation in politics?

A Yes, because of the prerequisites of voting also.

Q In the past four years or so, most of these have been found to be unconstitutional and the residence requirements have been done away with and others. Would you say that the previous problems the Mexican-American experienced in dealing with these continue to have an effect on Mexican-American political participation?

A We were traumatized for many years and we have not recovered from the trauma yet. I think we have shown some improvement, but we have seen only obstacles on registering and so forth. This is

an imposition on the people and I don't get paid and I don't care about that, but some of the people that are registering voters should be paid.

Q I am going to show you what has been identified as Plaintiff's Exhibit 1, Peeler, and tell you that was described as a map of the Corpus Christi multi-member district and it shows it broken into three parts. Do you have an opinion as to whether or not the Mexican-Americans have a chance or that their chance would be improved in representatives if they were elected from this district outlined on that map?

A I would say this is a county map.

Q Yes.

A I would have to get this broken down in precincts but as I would say as it is now, we would have a better chance to get two Mexican-Americans elected there than the one we have right now.

MR. KORBEL: There is one other thing. These are the restrictive covenants. Can I offer these?

I will offer these as Plaintiff's Exhibit 8.

(The above mentioned documents were marked for identification as Plaintiff's Exhibit 8, Garcia.)

MS. LEVATINO: No objection.

THE WITNESS: I would like to give you a copy of the letter sent out by the concerned neighbors, and to quote them here, they say that Oscar Reyna, running for Place 4, is an organizer for the steel worker's union and answers to Paul Montemayor, his superior who is an official of the steel worker's union. As you will recall, the Plaintiffs in the school desegregation case, that is, Jose Cisneros, et al, who filed the suit against the school district, were financed by the steel worker's union and Paul Montemayor, to whom Oscar Reyna answers, testified in the case in support of the Plaintiffs and against the school district and neighborhood schools."

MR. KORBEL: We offer that in evidence.

MS. LEVATINO: No objection.

MR. KORBEL: I have nothing further.

E X A M I N A T I O N

BY MS. LEVATINO:

Q Doctor Garcia, would it be fair, in your opinion, to say that politics is a rough and tumble business?

A I would say today it is almost a dirty business.

Q In Plaintiff's Exhibit 3, which relates to the city council election, and where they were talking about the steel worker's union and the laborer vote turning out strong, are there white members of the labor unions -- were there Anglos along with Mexican-Americans supporting candidates to which that ad would be against?

A I think the ads we have shown here, if I remember right, -- I think you are referring more to letters than ads, but I would say I am not too well aware of the breakup of the community. I am sure that they have some Anglo members.

Q Well, -- okay. That radio spot --

A Yes.

Q On that one they were speaking of the steel worker's union and this special interest group in the city, but the steel worker's group, would it be fair to say that the steel worker's group and other people

who were working for the same candidates, that there were Anglo Americans involved in that race in favor of the candidates the steel workers had endorsed?

A I don't know. It is hard to determine what they would do.

Q It is your testimony then that the ad and the implication of that ad was against the Mexican-American and there were no Anglos in this community that would have disagreed with that?

A That is right. The feeling is that Anglos arise and vote against the Mexican-American people who are supported against the steel workers and Doctor Garcia and his friends.

Q It is your testimony that the Anglos, that that race was strictly a Mexican-American and Anglo fight?

A Not necessarily. I would say this is the city race and that is different from the school board race. This is a slate and the NOW Party that I was supporting had a block for the first time.

Q In that city council race, is it your testimony that there were no Anglo-Americans that were supporting the same candidates that the steel workers were supporting?

A I could not say. The end result, however, proved that this was not strictly a matter of a slate more or less.

Q Would it be fair to say that the requirements of the poll tax and annual registration and the requirements for residency worked a hardship not only on the Mexican-American, but on the Anglos also who were also poor or moved around a lot?

A I hate to say this, but as far as I know, and I say this sincerely, I would say there are very, very few poor Anglos in this city. I don't know, I know I have taken an oath and I work everywhere in the city and I don't see a single community that you can say where there are poor Anglos. I would say generally speaking that there are no poor Anglos in the community.

Q Okay. Have you dealt with the members of the present legislative delegation? Have they come and sought your support?

A Yes, they have.

Q Have you worked with them in the Democratic Party and have you discussed the political issues with them?

A Yes, I have, to a limited point.

Q What would be your opinion as to their responsive-

ness, say to bilingual education at this time, and limited to that -- well, strike that.

What is your opinion on their responsiveness to the issues and points which you raised with them?

A I would say that some of them talk about the Anglo, that they have been against us, completely, for many years, some of them. Some of them have been fair with us and I would say very few of them have been with us all the way. You see, in discussing issues, to me, you discuss the issue of bilingual education, which is nothing except education for the Mexican-American under certain legal procedures based on the facts, which says that you cannot speak a foreign language in a school. If you ask me, I would rather say, do you think if the Supreme Court orders transportation, and I am not talking about forced busing, but I am talking about free transportation to go from school to the other, I would say all the Anglo legislators except Cissy Farenthold would have voted against us. They would vote against it.

Q It is generally your testimony that in your opinion the Nueces County legislative delegation has not been responsive to the needs of the Mexican-

American in this community?

A No, I would not say that. I think they have been fair. I would say under the system, I would rather have them responsible to a people in a district where they feel free to run to support those people or not to do it. As it is right now, I would say basically where the legislators live or where the school board members live in the richer part of town, then I would say under the system all of our multi-members, they out of the goodness of their heart, they have no obligation to the poor in this community.

Q Could, or have any one of the members of the present delegation been elected without some of the support of the Mexican-American community?

A Yes.

Q Has any member of the Texas House been elected without any support from the Mexican vote?

A No, of course, you can't. People are free to vote, we pay nobody to vote the way we feel they should vote. You find people who vote -- I have voted for Anglos myself many times.

Q So the present delegation, as it is made up, the people have received votes from Mexican-American?

A Yes, I would say yes.

Q From a practical political standpoint, the Texas Representative from this district could be elected without any support from the Mexican-American community?

A Yes, I would say so, on man by man. This happened this last race. You go into two races, Judge Hector dePena and Carlos Truan. In my way of thinking, the qualifications of one, Carlos Truan, was ten times better on his part and there was a block voting and like Hector dePena, because of their names, their opposing candidates were so weak and it was a question of block voting.

Q But Carlos Truan did win the race?

A Yes, barely.

Q And he did get some Anglo votes?

A Yes.

Q This legislative district has never been a single member district in the Texas Legislature, is that correct?

A I can't recall.

Q Well, they, since the city and county of Nueces County has had enough population to give it more than one representative, it has been a multi-member district?

A I don't know. You see, what happened, of course,

we started supporting Anglo representatives for many years, because we didn't have a chance to win. We have started working trying to run somebody. I am trying to tell you this, that under a system, and here you have this multi system on the school board election and --

MS. LEVATINO: Do you want to put that map in evidence?

MR. KORBEL: Yes.

THE WITNESS: I would say 50 percent Mexican-American and 5 percent Blacks and 7 board members, none of them black and one Mexican-American. What hurts the most here is the west part of town, you have none of them residing on the west part of town, so I would say to you that under a geographical representation, we could end up by having three representatives who would be responsible for people in that area. I say generally speaking no, they don't care about them.

Q Okay. It is your testimony that the Nueces County legislative delegation does not have to be responsive to the needs of the Mexican-American?

A That is right, as it is set up now.

Q Would it be fair to say that many of the elections, in this case legislative, school board and city,

could also be broken down along liberal conservative lines?

A Well, it comes running against Mexican-American and a breakdown along those lines.

MS. LEVATINO: That is all I have.

R E - E X A M I N A T I O N

BY MR. KORBEL:

Q In your opinion does this existence of past discrimination and present discrimination against Mexican-American and Blacks, fully preclude their participation in politics in Nueces County?

A Yes.

Q In your opinion, does the past and present discrimination against Mexican-American and Blacks fully preclude their participation in politics in the State of Texas?

A I would say certainly, as a proportionate total. It should be better in proportion to population.

MR. KORBEL: That is all I have.

MS. LEVATINO: I have nothing further.

MR. KORBEL: We will offer this as Plaintiff's Exhibit 8 in evidence.

(SIGNATURE WAIVED)

THE STATE OF TEXAS]
COUNTY OF NUECES]

I, RONNIE VERNON, a Notary Public in and for Nueces County, Texas, do hereby certify that the facts stated by me in the caption hereto are true; that the foregoing deposition of DOCTOR HECTOR P. GARCIA, the witness hereinbefore named, was at the time named, taken by me in stenograph, the said witness having been by me first duly cautioned and sworn upon his oath to tell the truth, the whole truth, and nothing but the truth, and later transcribed from stenograph to typewriting by Gail Duncan.

I further certify that the above and foregoing deposition as set forth in typewriting is a full, true and correct transcript of the proceedings had at the time of taking said deposition.

I further certify that I am neither attorney or counsel for, nor related to or employed by any of the parties to the action in which this deposition is taken, and further that I am not a relative or employee of any attorney or counsel employed by the parties hereto, or financially interested in the action.

WITNESS MY HAND this the ____ day of _____, A.D., 1973.

_____
RONNIE VERNON
Notary Public, Nueces County, Texas

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF TEXAS
AUSTIN DIVISION

CURTIS GRAVES, ET AL.
VS. Civil Action No. A-71-CA-142
BEN BARNES, ET AL.

DIANA REGESTER, ET AL.
VS. Civil Action No. A-71-CA-143
BOB BULLOCK, ET AL.

JOHNNY MARRIOTT, ET AL.
VS. Civil Action No. A-71-CA-144
PRESTON SMITH, ET AL.

VAN HENRY ARCHER
VS. Civil Action No. A-71-CA-145
PRESTON SMITH, ET AL.

FRANK A. ESCALANTE, ET AL.
VS. Civil Action No. A-71-CA-115
MARK WHITE, ET AL.

JAMES GASKIN, ET AL.
VS. Civil Action No. A-71-CA-146
MARK WHITE, ET AL.

WANDA L. CHAPMAN, ET AL.
VS. Civil Action No. A-71-CA-155
MARK W. WHITE, JR., ET AL.

* *

APPEARANCES:

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For the Plaintiffs

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MR. THOMAS BLACK, Attorney at Law, Austin, Texas

MR. LARRY YORK, Asst. Attorney General, 7th Floor, Supreme Court Bldg., Austin, Texas

For the Defendants

* * * * *

ANSWERS AND DEPOSITION OF L. DEWITT HALE, a witness called by the Defendants, taken before Dwain Coffey, Certified Court Reporter in and for Travis County, Texas, on the 19th day of November, 1973, beginning at 3:30 o'clock, p.m., at the 7th Floor of the Supreme Court Building, Austin, Texas, pursuant to the agreement hereinafter set forth.

Duplicate Taken November 19, 1973

I N D E X

WITNESS: PAGE

L. DEWITT HALE

Examination by Mr. York 3

Examination by Mr. Richards 55

Examination by Mr. George 70

E X H I B I T I N D E X

EXHIBIT NO.	DESCRIPTION	PAGE MARKED	PAGE OFFERED	APPEARS
DX-1	Census Tract	3	12	Rear cover of original.

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A G R E E M E N T

It is agreed by counsel for the respective parties hereto that time, notice and all other requirements of the Texas Rules of Civil Procedure pertaining to the taking of oral depositions are waived, and that the deposition of the witness named in the caption hereto may be taken at this time and place and may be used on the trial of this case the same as if the witness were present in Court and testifying in person.

It is further agreed by counsel for the respective parties hereto, that after being transcribed into typewriting by, or under the direction of the officer taking the same, said deposition may be certified by him and filed by him in the office of the Clerk of the United States District Court For The Western District of Texas, Austin Division, without the necessity of obtaining the signature of the witness, same being waived by counsel for the respective parties and by the witness.

* * * *

L. DEWITT HALE,

said witness, after being first duly sworn, was called as a witness by the Defendant, and testified as follows, to-wit:

EXAMINATION,

By Mr. York:

MR. YORK: Mark that as Defendant's Exhibit No. 1.

(Whereupon, Defendant's Exhibit No. 1 was marked for identification.)

MR. RICHARDS: Let me state as a preliminary to this deposition that I have stated off the record that we had on the Plaintiff's side we had allocated responsibilities. Nueces County was allocated to George Korbel, American Legal Defense and Education Fund, and he is not present here for this deposition. I am not prepared to cross-examine Mr. Hale because simply I have not done any background preparation and so for my

purposes I am going to be opposed to closing the deposition as to cross-examination. Now, I don't know all the facts with respect to the notice given to Korbel about the deposition. I know I spoke to him in Lubbock this morning by phone. At that point, he was under the impression that the Hale deposition had been postponed and so I am not aware of -- but I do know he was in Lubbock with no possibility of getting here this afternoon for the deposition.

MR. GEORGE: Some kind of statement on the allocation of responsibility and the republican plaintiffs are not either prepared to cross-examine on Nueces County.

MR. YORK: David, what time did you talk to Korbel this morning?

MR. RICHARDS: He called when I first got to the office, around 9:00. I am not sure, early in the morning about 9:00 or 9:15.

MR. YORK: Did he say that it was impossible for him to travel to Austin from Lubbock and to arrive here by 3:30 or so in the afternoon?

MR. RICHARDS: No, he did not say that to me. I said to him that I heard they were going

to -- did he know that they were taking depositions today including the deposition of Mr. Hale because that's what I had a message in my office that that was what was coming off. He said, no, he understood they had postponed Mr. Hale's deposition for some other time. So, there was no discussion whatsoever whether or not he could get here and I didn't know until later that Mr. Hale's deposition was actually going to be taken today.

MS. LEFATINO: I did speak with Mr. Korbel prior or during last week and informed him that there was a good possibility we would be taking Mr. Hale's deposition today. I also spoke to him this morning on the telephone, I believe, prior to -- it was before I talked with you which would -- whether Korbel talked to you first or me first. I did again tell him that Mr. Hale would be deposed today and he voiced no objection to it at that time. So, I assume -- we did discuss other deposition matters with regard to those being taken in the future.

Q Give us your name, please, sir.

A. L. Dewitt Hale.

Q Where do you live, please, sir?

A Corpus Christi, Texas.

Q What is your business or profession?

A I am a lawyer.

Q And how long have you been a licensed attorney?

A Licensed on December 31, 1940.

Q How long have you lived in Corpus Christi or that area?

A Since about November, 1946, approximately.

Q Have you lived there continuously since that time?

A Yes, sir.

Q Are you presently a member of the Texas Legislature?

A Yes, sir.

Q And how long have you been continuously a member of the Texas Legislature?

A Continuously since January of 1965.

Q When were you first elected to the Texas Legislature?

A In November, 1938.

Q And from what area, county, or whatever was at?

A Collin County.

Q Which is located where in Texas?

A It joins Dallas County on the North, Northeast.

Q All right. Why don't you just by shorthand narration bring us from 1938 up until the time you first ran

for elective office in Nueces County.

A. All right. I ran for legislature first in 1938 and was elected. The war came along and I was out of politics during the war. After the war, I moved to Corpus Christi and began the practice of law there with no intention of ever getting back into politics. In 1952 -- let me back up. In 1951 there was a Reapportionment Act passed by the legislature affecting representative districts and as a result of that Reapportionment Act, Nueces County acquired three representative seats and a part of a fourth and at that time as the 1952 election approached, I was encouraged by a number of people who knew I had been in the legislature once before, to run and I did run and was elected and I served from 19 -- January, 1953 through December, 1962. In 1962, I ran for the Senate and got beat, so I was out of office from '62 through '64. '63 and '64 and in 1964 primary, I ran for House seat again and was elected and served continuously since that time.

Q All right. During the period from 1946 through 1952, were you familiar with elective politics as they existed in Nueces County?

A. Yes, sir. I would say that I was not as familiar as I

would be if I were in public office, but I was probably a lot more familiar than 99 percent of the people down there because I was an active participant in all of those campaigns although I was not a candidate myself.

Q You have always run and been elected as a democrat, I presume?

A Yes, sir.

Q And have you practiced law in Nueces County continuously for a living since 1946?

A Yes, sir.

Q What was the representative situation in Nueces County prior to the Reapportionment in 1951?

A Nueces, Jim Wells, in Duval County, was joined in a three county district which elected one representative.

Q All right. And what was the result of the change in 1951 or 1952?

A Nueces County was given three seats in the House and it was joined with Kleberg County and I don't -- I don't believe Kenedy County was in that district. I believe just Kleberg and Nueces County were joined as a separate district known in those days as a flotorio district and that flotorio district elected one. So that Nueces County in fact had four representatives and Kleberg County had one

representative which also had to represent Nueces County.

Q Could you bring us up to date in any kind of a capsule form as to what subsequent Reapportionment Acts have done in Nueces County?

A I am not sure that I can do it precisely. The 1951 Reapportionment, if I'm not mistaken, stayed undisturbed through the ten years that I, before I ran for the Senate. I believe in 1961 session of the legislature passed another Reapportionment Act and I believe in that 1961 Reapportionment, Nueces County acquired four seats, I believe. Now, I could be in error on that. At one point, and the procedure here, historically we had four all by ourselves and I believe it was as a result of 1961 Reapportionment. Subsequent thereto there have been about three Reapportionments, I believe two by the legislature and one by the Redistricting Board that have been done as a result of federal court decisions, and those have varied. One of those Reapportionments combined the Nueces and Kleberg into a single district with four representatives running at large, and I believe we operated that way for either two or four years. Well, it must have been about four years because I made two campaigns in Kleberg County during that time. Then, under a subsequent

Reapportionment, they took Kleberg away from Nueces County and put it in another district and I am not sure exactly what the composition of that district is, and then they took the Northern and Western part of Nueces County and joined it with counties to the North in a district leaving the Southern and Eastern part of Nueces County as a unit with three representatives, and that is the posture in which we are operating today.

Q All right. What has been marked here as Defendant's Exhibit 1 on the Hale deposition, would you look at that map prepared by the Legislative Council and see if it accurately describes District 48?

A Well, I am -- I am familiar with this map. We have been working with these maps off and on for several years. And to the best of my recollection, that is correct. The only thing -- the only hesitation I have is that this red line which you have drawn on here, someone has drawn on here, dividing District 48 from a part of District 41, I think, is correct, but I am not entirely sure about the Northern part of that line. I know that Bishop, the community of Bishop, is in District 41. The community of Driskell is in 48 and that dividing line goes down Highway 77, that is

correct. All of the city of Robstown and part of the area here that is not even in the city limits of Robstown but it's in the adjoining census tract is in 48, that's correct; and I think the whole thing is. I assume that red line is correctly drawn.

MR. RICHARDS: We have no objections to it. The record in this case already contains certified copies of the district as they now exist and I presume if there is any variance I understand would be whatever the official record contains.

MR. YORK: We might have some dispute what the record in this case is but --

MR. RICHARDS: I am talking about the case of Regester Vs. White that's been in the Supreme Court and we have a 4,000 page record. That's the case I mean.

MR. YORK: What we are saying is that we are not certain that is the record in this case. The stipulations contained in that record are binding in this case but we can fight that out later on.

A. Well, I think this map correctly reflects the status of

the districts.

Q Okay.

MR. YORK. We will offer what has been marked as Defendant's Exhibit No. 1 on the Hale deposition.

(Whereupon Defendant's Exhibit No. 1 was offered into evidence.)

MR. RICHARDS. Well, with the objection we have noted.

Q Talking first about the legislative delegation that has come to Austin from Nueces County since 1952 since it has been a multimember operation, or backing up a little bit from 1946, from the period from '46 to '52 that you are familiar with, during that period where there was a single legislator representing those three counties. Do you remember who the representatives were in terms of whether they were Anglo or Chicano or black?

A Yes, sir. In 1946 Mr. O. E. Cannon was elected representative from that three county district and he

served two terms. He was elected in 1946 and re-elected in 1948. Mr. Cannon was, obvious from his name, was of Anglo-Saxon descent. He is now the judge of the -- on the -- one of the judges of the Municipal Court there in Corpus Christi, incidentally. He did not run for re-election in 1950 and his seat was won in a contested election by a gentleman by the name of Gabe Garrett, who was at that time a publisher of a weekly newspaper in Corpus Christi, and Mr. Garrett served one term representing the three county areas and when the 1952 election came up, of course, his three county district had been abolished. So he ran then for one of the three seats in Nueces County under the Reapportionment and was elected in 1952.

Q All right. Tell us, first of all, in kind of a summary way what the makeup of the delegation has been from Nueces County since that time concentrating on whether women have been included in the delegation, whether Chicanos have been included and whether blacks have been included and whether republicans have been included.

A The election process, as far as our legislative delegation has been concerned, has been mostly cosmopolitan. We have had representatives since 1952 from Nueces County representing almost every area of

the political spectrum.

MR. RICHARDS: Can we go ahead and get them specific? I thought you were going to give us '52 by name. Can we go ahead and get those? Can we go ahead and get those now while we are at it before we characterize?

THE WITNESS: Yeah.

MR. RICHARDS: If you are going to trace them on through for us, I think that was the question.

A If you would like. In 1952, the elections of 1952 resulted in delegation composed of Mr. Gabe Garrett, Mr. Curtis Ford, L. Dewitt Hale, and the flotorio representatives for Kleberg and Nueces was Ben Glusing from Kingsville. The first three living in Corpus Christi.

In 1954 election, let me see. In 1954, Mr. Garrett did not run again. And his place, I believe, was taken by Mr. Woolsey. Let's put him down temporarily here on your list. Mr. Ford was re-elected and Dewitt Hale was re-elected and Glusing was re-elected. So, the only change at that time was that one seat.

In 1956, Mr. Forsythe was elected to Place 1,

Mr. Woolsey to Place 2, and I was in Place 3, Dewitt Hale, and Glusing in the flotorio.

In 1958, Ronald Bridges in Place 1. Woolsey in Place 2; Hale in Place 3, and Glushing in the flotorio.

In 1960, let's see. 1960, how many times do we have Woolsey down there on your list?

MR. RICHARDS: I show him to be elected first in '54, then in '56, and then in '58 in Place 2.

A I don't believe Mr. Woolsey served but two terms. I don't have all these newspaper clippings quite back that far so I am shooting from memory. Let's see here.

MR. RICHARDS: As far as I am concerned, Mr. Hale, just as best you recall. I am not going to come back and try to prove you wrong.

A Let's see. In 1960, Glusing was re-elected and I was re-elected, Hale. Bridges was re-elected. Let me back up a minte. In 1954, you have got Woolsey?

MR. RICHARDS: Un-huh.

A That was J. W. Cooper instead of Woolsey. J. W. Cooper served one time in the legislature. So, that puts Woolsey being elected in '56 and '58 for two terms. All right. Then in 1960, let me see.

Q Again, you need not be exactly on these.

A I am not sure about 1960. Let's see, 1962, let's see. In 1960, it would have been Travis Peeler to the House in 1960. Now, does that give you four?

MR. RICHARDS: Un-huh.

A So, 1960. All right. In 1962, you have Peeler re-elected, Bridges, re-elected, and James Kalger, K-a-l-g-e-r, and James Lattimore, L-a-t-t-i-m-o-r-e. James Lattimore was the fourth.

Then, in 1964, let's see. In 1964, William Bonilla, B-o-n-i-l-l-a, and Kalger and Hale and Peeler. In 1966, Scoggins and Bridges and Hale --

MR. RICHARDS: Off the record a minute.

(Off the record discussion.)

A Where were we now?

MR. RICHARDS: You were listing in '66, Scoggins, Bridges, and Hale, the legislative delegation. That would have been after the Reapportionment Bill in '65. So perhaps it was cut back to three seats on it then.

A No, we still had four, I believe, let's see. How many times do we have Peeler in there?

MR. RICHARDS: I believe we have him '60, '62, '64, and '66.

A Then we would have been there in 1966. Then, in 1968, Farenthold, Truan, Salem, Hale.

1970, repeat. Farenthold, Truan, Salem and Hale.

And 1972, we dropped back to three. And that would be, Farenthold dropped out, so that would be Hale, Salem and Truan and the Northern part of the county was tied in with Leroy Wheating who represents part of Nueces County under that. Now, that summary gives you, I think, tells the story all its own in that you -- if you will just check back with me and I realize some of what I am about to say could be a matter of personal opinion, but -- by and large the

voting records and the Texas Manufacturer's Associations compiles voting records. The AFL-CIO compiles voting records and other organizations compile voting records to put out and show how a representative votes and re-acts, and generally speaking, for example, you have on the -- of a very conservative political philsophy. You have people like Ben Glusing in there, Bill Woolsey, J. W. Cooper, Charles Scoggins, a republican incidentally. On extremely liberal thinking, you have people like Gabe Garrett, Curtis Ford, Carlos Truan. Well, I hesitate to classify myself in the political spectrum. Although as great as an authority as Preston Weathered in one of his rating sheets one time rated me as a moderate democrat and I considered that the ultimate compliment coming from Preston Weathered. My political position in this thing, not that it is any significance in this lawsuit, has been a fairly steady one and yet today I am considered a conservative and whenever I first went into the legislature I was considered a liberal and my stand and posture is about the same as it was then. I think the whole political philsophy of our country has moved to the left and I have held as about a steady position and as a result I have moved over on the conservative side of the

ratings now where I used to be leaning toward the liberal side. But, anyway, my political philsophy, the point I want to make on this, that we have covered the full range on the political spectrum from extremely conservative democrats and one republic and two extremely liberal democrats with a variety of degrees in between represented in the 20 years since 1952 in our delegation. From a sex standpoint, we have elected one woman. Francis Farenthold, she was elected on two different occasions, served two terms and has, as you all know, ran for governor two years ago and made the run-off and lost in the run-off for governor. We have elected our delegation one republican Charles Scoggins. He was elected in 1953 in a special election to fill Lattimore's place. Mr. Lattimore having been killed in an automobile collision in 1953 and Mr. Scoggins was elected there. Mr. Scoggins lost in 1964 and then he ran again in 1966 and was elected and ran again in 1968 and lost. So, he is -- again, it's one of those things to me points out that each race has been an individual proposition and an individual win or lose with the individual candidates on their merits without regard to it.

With regard to the racial composition of the

delegation, we have elected two Latin-American representatives, Tony Bonilla was elected in 1964. He was defeated for re-election in 1966 but he lost in the democratic primary to another Mexican-American, a boy by the name of Gonzolas beat him in the primary, and then the second one then was Carlos Truan who was elected in 1968 and again in 1970 and a third time in 1972, and he is still a member of our delegation. From a religious standpoint, we have pretty much covered the spectrum. I am a Baptist, Carlos Truan is a Catholic, Joe Salem, I hesitate to say, he may shoot me, I think he is a Mohammand, but I am not sure of that.

Q He is Lebanese, is he not?

A He is a Lebanese by racial background. In fact, some of our --

MR. RICHARDS: Greek Orthodox.

A We have jointly made a lot of appearances before civic clubs in the past four years and when Sissy was in our delegation, I used to bring the house down by I being the senior member; I was usually the first one called on and I would bemoan the composition of my delegation when they were complaining about us not doing this and

doing that and I would say, golly, look at my delegation here. I have got one Arab, one Mexican, one flustrated female and one broken down lawyer in our four-member delegation, and that's literally what we had. It was -- I can't imagine a more cosmopolitan delegation than we have had through the years in our delegation.

Q What is the current ethnic make-up of District 48 in terms of percentage of Chicanos, percentage of Anglos, and percentage of Black population?

A I should have brought my cards with me. I have that broken down by census tracts and by racial composition. Actually, according to the census, the official census publication you have really got to break it four ways. Got to break it into Anglo, Anglo-American, Mexican-American, Negro, and others. Because they have another category for others in their census publications.

MR. RICHARDS: That's Asian, I think, isn't it?

A I presume it's Japanese, Chinese, and whatever else it is. Anyway, in our county, it runs there, roughly, in District 48, it's roughly five percent Negro. It's about 40 to 41 percent Mexican-American, and there is

about one percent, I think, we have got, roughly, one percent in that other category and the balance is Anglo-American, about 55 or 56, 57 percent Anglo something to that effect. Approaching 60 percent; between 55 and 60 percent.

Q Do you know, if there is, pardon me, did you want to add something?

A What I was going to say, you run into some definitions and questions on terminology when you do that. They define Mexican-American in those census books as everyone that has a Mexican sounding name is included in it which you get into a lot of shadowy areas by name as to whether they are Mexican or whether they aren't. For example, we have a Constable in Nueces County by the name of Fred Wilburn. That name tells you absolutely nothing. He happens to be a Mexican-American, but you -- the name doesn't tell you that. You have to know him to know that. So, I think that any percentage -- even the percentages you take from the census publications themselves, there are some shadowy areas whenever you start trying to precisely find how many Anglo-Americans there are, how many Mexican-Americans there are, and how many Negroes.

Q All right. To your knowledge, is there any appreciat

difference in the voting patters in terms of voter turn-out between the Chicano population in District 48 and the Anglo population?

A You mean in terms of the percentage of the qualified electors who actually exercise a franchise and vote?

Q Yes.

A I haven't ever studied the pattern to see that, but just as, as a opinion, I would say that generally speaking we probably get a better turnout among the Mexican-American people than we do the Anglo people.

Q All right. What is the procedure for getting on the ballot in Nueces County in District 48? We have heard talk of some other counties about schemes of slating where one entire group may be involved and, say, gets on the ballot and that kind of thing. Is there any such thing in operation in Nueces County?

A No, and there never has been. Since I have been a candidate in every election that was held in Nueces County, starting in 1952, up to the present time. In 1952 was the first time we had a multimember district in Nueces County. There have never been any slates around there and everyone runs as an individual. When I decided to run, I went to the county chairman and said, I want an application blank and I filled out an

application blank and swore to it and the notary took my acknowledgment on it and filed it and I was a candidate. I believe I paid him a $100 filing fee, if I'm not mistaken. Or maybe he billed it to me later, I am not for sure. Every race has always run as an individual. There's no such thing as a good government league or council for better government that picks or selects the candidates in our legislative races. That has never been true down there since we have had a multimember district. Each race stands on its own.

Q Is there an organization of labor interest in Nueces County in any form or way exercises any influence over the selection of candidates or the endorsement of candidates once they are selected?

A Well, of course, there are many labor organizations in Nueces County. I don't know how many. Just as a wild guess, I would say there are probably 12 or 15 different unions that have locals in Corpus Christi. There is a, I say loosely knit, I don't know whether that's really accurate or not. There is an organization called the Central Labor Council there and I am not sure who all is on that council, but I do know there is such an organization and it's a sort of a holding corporation for all these locals, a coordinating agency for all

these locals, Then, there is another one called the Building and Constructon Trades Council which is a similar type of organization for the unions that are in the building and construction area, but and you say do they influence -- have any influence, why, I am sure they have influence. To my knowledge, they have never picked a candidate though. They take a stand on everybody that runs and either individually or electively take sides. In some races, they endorse candidates and in some races they don't. They have never followed any particular pattern.

Q What about or what sort of organization exists among the Chicano community? Is it organized in the block and some fashion, different from the other -- rest of the community or not?

A No, I don't think so. You have a number of organizations whose membership is primarily Mexican-American extraction organizations. The two leading organizations would be the Lulac which is short for League of United Latin American Citizens, I believe, is the full name of that. I happen to be a honorary life member of that organization, incidentally, and which I am proud. They made me an honorary life member because of some of the work I did in the field of education directly pinpointing

the problems of the Latin-American child being --

Q They didn't vote you in as being unresponsive as to the needs of the Mexican-Chicano community, did they?

A They voted representative, Malcolm McGregor of El Paso and me both in the life membership at the same time because representative McGregor and I had pushed legislation in there that was designed to set up special training programs for non English speaking children of the age of five years, to give them instruction in English language so that they could enter the first grade on a competitive level with the children who could speak the English language, and it was program benefited in my area primarily the Mexican-American people. In other areas of Texas, it benefited German children in some instances and some other nationalities in other areas but that was the program that we fought for for several years and they voted us life membership because of our work on that and other educational areas effecting the Latin-American children. Then, there is also an organization called the GI Form which is another large group primarily orientated toward Mexican-American communities but, again, that is not--there is no racial qualifications for joining those organizations. Both of those organizations have

members who are not Mexican-American extraction. I don't know to what extent or the amount of it, but there are other members, but that's -- those organizations although those two are primarily oriented toward the Latin-Americans, you also have the organization called the Mexican Chamber of Commerce down there and it's working in pretty close collaboration with the Corpus Christi Chamber of Commerce, and again there is -- there is no racial distinction in either of those organizations. There are a lot of Anglos that are members of the Mexican Chamber of Commerce. They are a lot of Mexican businessmen members of the Corpus Christi Chamber of Commerce. So, there is a lot of cutting across the lines on those organizations, and I presume there are lots of other organizations. There are three that I happen to think of oriented primarily toward the community of the Mexican descent people.

Q In the voting situations where there has been a race particularly, say, in the democratic primary between an Anglo and a Mexican-American contested race, has the vote, to your knowledge, broken down total along ethnic lines or have the ethnic groups been divided in their response to the candidates?

A Well, that's an extremely difficult question to answer,

and, of course, it is a judgment. It's a judgment response to it. There, I presume, you would have to say there is some tendency for Anglo people to, other things being equal, to vote for an Anglo. There is a tendency for people of Mexican extraction, all things being equal, to vote for a person of Mexican extraction. But we have crossed those lines so many times that it's just -- it's a pattern that you can -- you just can't establish a pattern out of it. I am a living example of that. For instance, I always, ever since I have been in politics, consistently obtained a much larger percentage of the Mexican-American vote than I have of the Anglo vote in Nueces County. And I don't know why except that I just have a big community of interest with the Mexican-American people and with the leadership and they are my friends and I am their friend and I am working with them or for them through the years, and the same thing is true in many instances -- you just can't draw a pattern. For instance, Carlos Truan in the last election, in the 1972 election, had an opponent who was an Anglo and Mr. Truan won. In the election last year the County Court at Law Number 2 was a race between a man named DePena, obviously of the Mexican descent, and Wilson, obviously of Anglo descent. Mr. DePena won the

county-wide race. So, and you can go on, Oscar Soliz, who is our district clerk now defeated when he was first elected district clerk about two or four years ago. He had two or three opponents all of whom were Anglo-American descent and he defeated all of them and was elected district clerk. He is making a fine district clerk. County Court at Law Number 1 is held by Judge Garza and he defeated a fine young lawyer, Anglo lawyer there by the name of Jack Kelso in a county-wide race. So, when you say is there any pattern, I can answer that no, there is no pattern of that type that I can see that is discernable. I would say there is a tendency to follow racial lines and other things, all things being equal, but by and large you look through these individual races through the years and you find that there is not much pattern to it. Sometimes an Anglo wins and sometimes a Mexican wins and it just sort of depends on the individual race.

Q All right. During the more than 25 years that you have been associated with politics in Nueces County, have any of the races that you have been aware of been run so that the issues in the race were racial issues where there were racial slurs being heard about and were the issues before the public were issues of race and issues

of Anglo versus Chicano et cetera?

A I hesitate because I don't recall any off-hand. I was trying to think back if we had had any races like that and I certainly don't recall any. I don't want to say, under oath, that there haven't been some or whether that has been done because if it has it certainly hasn't fixed in my memory. I don't recall a single race since 1952, to my knowledge, where there have been any -- any real big racial issue involved in the election. Now, that's not to say this that you are not going to ever eliminate all of the prejudices of all the people, and I am sure that a lot of people in Nueces County will take the position that probably a lot of Anglo people down there and just say, I am just not ever going to vote for a Mexican-American. There are a lot of Mexican-American people say I am not going to ever vote for an Anglo if I have any choice, but I think those are in a small minority. I think our community has reached a stage of political maturity and by and large on its own without any traumatic force from outside the county. I think we have met our racial problems head-on in that county and we desegregated our junior college voluntarily before they started lawsuits about desegregation and we did the same thing on our

school system. We did the same thing on our restaurants and cafe and everything. Our county was a leader in that, in the state and we are proud of that. We are proud of the fact that we haven't had any racial violence down there because there has been no need for it. We just simply have not followed the pattern of discrimination that regretfully has been evident in other areas of the country.

Q To your knowledge, in the period that you are familiar with, have their been any lawsuits filed, to your knowledge, where the Mexican-Americans were suing claiming they were being denied the right to register to vote or denied the right to vote or denied the right to get on the ballot through some scheme or conspiracy of any sort?

A Well, let me see. I believe -- I don't want to misstate anything. I really don't recall anything on the line you asked, but I believe the lawsuit in which the federal courts outlawed the poll tax in Texas, if I am not mistaken, that came out of Corpus Christi.

MR. RICHARDS: It was the annual registration laws.

A Was it the annual registration? One of those lawsuits -- I don't know why it came out of Corpus, I guess it was just a good spot to make a guiena pig out of it, but I -- one of those lawsuits having to do with that originated in Corpus Christi and was taken up. Other than that, I don't think -- I don't remember any lawsuits down there having to do with anybody having any trouble getting on the ballot or anything pertaining to the election process. If there is any, I don't recall them.

Q As far as your elective offices other than State Representative, you have characterized some of them already and I would like for you to add to the record any Mexican-Americans that, I suppose we will limit it right now to the ones that currently hold office in the county. The elective offices in the county that you haven't already told us about.

A That are now holding public office in the county. Well, let's see, I mentioned Oscar Soliz, who is our district clerk.

Q That's a county-wide election?

A That's a county-wide election.

Q He won that against an Anglo, is that correct?

A Yes, sir. A gentleman by the name of Gallagher was

the run-off. In fact there were several I think in the first primary that time, if I am not mistaken. I don't--I don't have the first primary sheet here.

Q That's okay.

A Then the judge of our County Court at Law Number 1 is Hector DePena. The judge of our County Court at Law Number 2 is Margarito Garza. Both of those are county-wide elections.

Q How many County Courts at Law do you have?

A We only have two now. I created a third one during the last session of the legislature and it will be effective January 1, 1975. We will have a third one going into operation.

Q Okay.

A And the judge of that court will be elected in the primary selection in this next year.

Q Okay.

A Let's see. Then we have Manuel Cantu who is one of two Justices of the Peace of Precinct 1. Precinct 1 covers all of the Metropolitan Corpus Christi which, in effect, is all of this Nueces County in District 48. So, it's practically a county-wide election. Fred Wilburn who is a Constable in Precinct 1 and the same is true of that. It's practically county-wide. He loses a few

precincts outside and the Western part of the county that is not in his precinct.

Q How would the ethnic population percentage break down in Precinct 1? Give it to us roughly or exactly, however you know it.

A In Precinct 1, I would say that the percentage of Anglo would probably be slightly higher and the percentage of Mexicans slightly lower than it would in all of District 48 for the reason that 48 includes Robstown which is heavily mexican population and quite a bit of the scattered population in the Western part of the County here is Mexican descent. So, Precinct 1 would probably, and I don't have accurate figures on that, but my judgment and my recollection would be probably a little bit higher percentage Anglo than the 48 would as a whole.

Q All right. Who else?

A Let's see. Then, one of our County Commissioners is a Mexican-American, Solomon Ortiz, and he is a fine young man.

Q Out of how many County Commissioners?

A One out of four of our County Commissioners.

Q How about your City Council?

A And I was trying to think, I was trying to think

courthouse. None of our District Judges are Mexican-American.

Q That's how many District Judges?

A And we have -- we have three in Nueces County and we have two that we share with Kleberg and Kenedy Counties. So, there are five sitting in the county altogether, but two of them include two other counties in their district. On the City Council today, we have a City Council composed of a Mayor and six Commissioners. The Mayor is an Anglo-American. The six Commissioners are two Anglo-Americans, one Negro, and three Mexican-Americans on a six-man City Council. On the School Board, we have one lady that was recently elected, Mrs. Dollington, and I don't have a list of all of the School Board here with me. There is Ortoria Vasques who's on the School Board. I believe he's in his either fourth or fifth six-year term on that Board. And he is a very outstanding member of the School Board. Doctor Clotilda Garcia is on the Delmar College Board of Regions on an elective process. I don't have this material quite as well organized as I would like to have. Domingo Pena was a leading vote getter in the Water Board election here in 1968 and was elected to the Board of the Lower Nueces Water

Supply District, although, he voluntarily retired on his own volition here a few years later.

And on the City Council, you can go all the way back. We have consistently had a pretty even division on the City Council. Incidentally, the members -- one member of our City Council now, who happens to be a black man, who is Reverend Harold Branch, that we are real proud of. He was just recently elected Second Vice-President of the Baptist Convention of Texas. Baptist General Convention of Texas. He is a Baptist preacher and an outstanding man in every respect.

Q What has the situation been generally with regard to republican opposition to -- in these offices we have talked about, State Representative offices that you have served in? Has it generally been republican opposition or generally not or how would you characterize that?

A It's been very spotty. In the School Board elections, the City Council elections, the Water Board elections, those are conduced at times other than the primary and general election dates. As a result, if there has ever been any democratic versus republican issues in any of those offices, I am not aware of it. I think those races are dominated and controlled by local issues and not by any political state-wide or nation-wide.

In the -- in our legislative delegation, there have been only spotty republican opposition. I was trying to think. I believe since 1952, I believe, I have only had one republican opponent, as best I recall. Opponent one time. Now, Travis Peeler, during his four-year tenure on one occasion had a republican opponent. Ronald Bridges, I know, had a republican opponent at one time. Charles Scoggins ran against Ronald Bridges at one time. The first time Scoggins ran, he ran against Bridges and lost and came back later and was elected. And I don't believe there has ever been a republican candidate for the State Senate seat down there in our State Senate, but the republican opposition has been, as I say, very spotty and I think again there was -- it's on an individual basis. I don't believe there has ever been any organized effort by a republican party or any other group to try to promote candidates for legislature. I think it's our -- I think our delegation has been just like having three different county offices, you know. If you want to run for one of them, you run for one and if you were a democrat, you would run in the democratic primary and if you were a republican, you would run under the republican primary if it was a time when they were holding primaries.

Q Let's talk about the degree to which the Nueces County delegation has been responsive to the needs of the total community including the Chicano community.

MR. GEORGE: I would like to object unless you are going to define what you mean by responsive.

Q You can answer that. We just need that for the record.

A Well, I talked to Oscar Soliz, who is our District Clerk down there and a good friend of mine. I asked him that same question the other day just out of curiosity to see if I was prejudice in my thinking on it, and Oscar, who had indicated that if you could arrange it, would be a witness in this case. And Oscar tells me that he is for Nueces County, he is opposed to single member legislative districts and I asked him and I said, Oscar, why are you opposed to single member legislative districts? He said because we can get better representation out of the group the way that it is set up now than we could ever with a single member district. Because I can pick up the phone and call any one of three of you and get immediate answers to any problem we have down here and have done

it on many occasions. I know that in the years that I have been in the legislature, I have had a very close affiliation with all of the groups in Nueces County. Some of my best friends are in the black community. Some of my best friends are in the Mexican community, and I know that as a representative representing the entire county, I feel like that those minority groups deserve more of my time percentage wise than the larger groups do and I have tried to be more responsive to their needs, and I think our entire delegation has taken that position. I think you can go back historically through our delegation and you will find that a great deal of our efforts were directed in the direction of trying to eliminate whatever -- whatever discriminations did exist in trying to bring about a community of interest there among all races, creed, and color that would make our county an example; and you can go back to the 1957 session of the legislature, for instance, right after the -- right after the decision came out on your school -- what was the school case.

Q Brown Board case?

A Brown versus Board of Education. I believe it was in the 1957 session of the legislature, as I recall, either '55 or '57 session where we had about 12 or 13

bills introduced in the legislature trying to preserve segregation in various ways. You can go back and check our voting record on that. Nueces County delegation voted against every one of those bills and we were in the little small minority there in the House. Those bills passed through this legislature overwhelmingly but you will find the Nueces County delegation voted against every one of them because we thought they were bad.

Q When you campaign now and during the period that you have been campaigning in Nueces County, do you campaign in and seek support of the Chicano and Black communities?

A I spend a great deal more time and energy and effort among the Black and among the Mexican-American communities than I do in the Anglo communities, yes.

Q Would there be any way to win in Nueces County if you did not have significant support from the Black and Chicano communities?

A Well, the mathematics -- if you go strictly by computer breakdown of the county. It is mathematically impossible to win without any Anglo or Negro vote because slightly over 50 percent of the county is Anglo, but that means you would have to get the Anglo community practically 100 percent and I just don't believe any living human being could do that. So, the practical answer to your

question is no. And that's, to me, that is the biggest one of the largest advantages of our multimember district is the fact that it does tend to eliminate political extremes in our county. It attempts to keep all of us close to each area because we realize that we have got to have support among the Anglo community, we have got to have the support of the Mexican communities. We have got to have support among the Negro communities. We need to get the support of all of them. At least cross the lines there if you hope to be successful, and as a result, I think, that we have -- have worked together with that in mind and we have tried to develop a program -- well, program is not exactly the right word, to develop a pattern of thinking that in a community of interest that is what is best for the county as a whole, without trying to narrow it down to isolated groups or wards and play one off against the other, and you can't do that in our county and win.

Q All right. There were several, or at least, I believe, several bills introduced this last session, 63rd, concerning bilingual education in our schools. I believe that's correct. What was the position of the Nueces County delegation on those bills?

A We were 100 percent behind every one of those bills and

have pushed them for more than this session. We were doing it two years ago and we were doing it years before that, trying to -- those are just portions of many bills that we have put in, and supported and in some instances sponsored trying to improve educational opportunities everywhere. I sponsored House Bill No. 946 during the last session of the legislature which was an attempt to meet the standards laid down by the Supreme Court in the Rodriquez case out of San Antonio on equal financial opportunity for every school child in Texas, and I sponsored the bill in the House and passed it in the House after a very bitter floor fight by a narrow margin and that again is addressing itself primarily to the needs of the minority groups in Texas, not just Mexican-American and Negroes, but all minority groups that are now not getting the same educational opportunities that others are getting because they happen to live, by accident of birth -- parents live in a district that does not have the financial resources to give them the same educational opportunities that a child living in a more wealthy district gets.

Q Were you supported by the rest of the delegation?

A Our delegation was unanimous on it and we have been unanimous through the years on all respects of

legislation in that area, that of legislative activity.

Q Have there ever been, to your knowledge, any significant number of complaints that you have received from members of the Mexican-American communities that you have not been representing their needs and that you have been unresponsive to the needs of that community?

A I have never received any such complaint from any area of Mexican-America, to the best of my knowledge, and I don't think the complaint would be valid if I did have one because I just don't believe that is true.

Q Speaking of the delegation as a whole, were you aware of any complaints made by the Mexican-American community or parts of that community against the delegation as a whole are now or in the past has been unresponsive of the needs to that community?

A It's going to be difficult for you to believe what I am about to tell you, but the records will bear it out. The biggest complaints enamating from the Mexican-American communities have been in criticism of the Mexican-American representative that had been elected in Nueces County. Tony Bonilla, for example, was defeated in his -- in a campaign for his second term in the House. He wasn't defeated by the Anglo community, he carried the Anglo boxes overwhelmingly and he was

defeated by the Mexican-Americans.

Q In favor of an Anglo?

A In favor of another Mexican.

Q That's right.

A But they were dissatisfied with his representation for some reason or other and it was -- and again, as I say, that was the most -- that was the only real example where I have -- that I recall where there was any real criticism among any members of our delegation for lack of responsiveness to the needs of that area of community activity and it was directed against a Mexican-American representative.

Q By what means are campaigns carried out in Nueces County in terms of television usage, radio usuage, and other media usage?

A Our campaigns for the legislature have been by standards in some other areas have been extremely modest in that there are three television stations in Corpus Christi. There are a number of radio stations and one daily newspaper. There is only one weekly newspaper of any consequence. That's the one in Robstown. The campaigns for the legislature are relatively inexpensive. I have been fortunate enough to be unopposed in any of the campaigns in many of the races I have made. I think the

most I ever spent in a campaign when I had opposition was somewhere around $4,000 or $5,000. To the best of my knowledge, as best I recall, about the most expensive races I have ever run for the legislature in Nueces County was one where I think about something -- somewhere in the vicinity of $10,000 was spent. And I don't mean to imply that $10,000 is not a lot of money. I think that's too much money to spend in a legislative race in Nueces County. I don't think you need that much money to win a legislative race in Nueces County and I have proved that in some of my races. And keep in mind, I am not a native of Nueces County. I came in there a total stranger in 1946 and whenever I first ran for legislature in 1952 I had only lived there about six years, and so I had no big initial built-in advantage in a political race in Nueces County and yet I have made the races on a very modest amount of money spent. I think the amount of money you have to spend in a race in Nueces County depends on how much energy and blood, sweat, and tears you will put into the race. If you are willing to get out and work, you don't have to spend much money. If you want to sit in an air-conditioned office and wait until the votes come in and count the votes, you are going to have to spend a lot of money.

So, I think the amount of money is in direct proportion to the amount of energy and drive and dedication that a candidate is willing to put into a race.

Q Do candidates for the legislature, in your experience, generally make use of the TV stations?

A In a very limited way. I would say the legislative advertising on the television stations down there have been -- has been very limited.

Q What about the newspaper?

A Now, the more newspaper advertising I would say relatively more dollar wise probably than on the radio and televisiion stations. That's not true if you move up into the State Senate seat or the U. S. Congress seat. They spent lots of money in those races. But it hasn't been true in the legislative races. Nueces County still has a lot of aspects of a country rural community although we are getting to be a fairly good size urban center now, there is a lot of the small town characteristics still evident in the community and a lot of the politicking that is done down there and a lot that I do is personal contacting. I go to meetings all the time. I am surprised that I ever get home because I go to something every night practically, you know, and I go to a lot of civic clubs and it is a

personal hand-shaking type community and you do it on an extent that if you do it and dedicate yourself to that phase of political activity, you can do it with a very minimum of expenditure of funds.
Q Do you have an opinion of the efficiency of the use of direct mail? Campaigns in terms of their effectiveness in getting votes for the guy that wants the votes?
A Well, yes, sir. I put out a mailing when I ran for the Senate in 1962 I put a piece of mail in the U. S. mail for every registered voter in the four county area. It was a tremendous job, as you can well imagine, and it costs quite a bit of money. I lost that race. I am not -- I don't blame losing the race on the fact that I put out the direct mailing, but I am convinced now as a Monday morning quarterback on that race and having gone back and studied and re-studied that campaign as to what I did that I shouldn't have done or should have done or didn't do, I feel like the money that I put into that direct mailing campaign I would have used much more effectively in some more areas.
Q Such as?
A If I had it to do over again, I would do it in other forms of spending more money, for instance, on a few helpers to go door-to-door and hand out literature.

It's impossible to do it by yourself. You have got to have help in order to do that sort of campaigning and being able to get a few more people to make shopping centers and hand out cards and literature on Saturday afternoon and other aspects of it. Even on newspaper advertising. I believe the dollars could be better spent in newspaper advertising than they could on the direct mailing technique.

Q If we were to assume that Nueces County were cut up into three districts and that you had single member districts, can you conceive realistically of a situation where a candidate would realistically have a chance to win in one of those districts without making the use of the broader media type things such as radio and newspaper?

A Well, of course, it would be possible. It's possible to win in a county-wide race without using any of those medias, but I would say that it is extremely unlikely if you are going to win a race in that county, either precinct race or, when I say precinct race, I am talking about precincts that include Corpus Christi. If you get out into some of these little rural areas like Agua Dulce and Banquette and run for Constable out in there, you don't use television on those races.

Q How do you spell those?

A Agua Dulce, A-g-u-a D-u-l-c-e.

Q Just like it sounds?

A Banquette is B-a-n-q-u-e-t-t-e. But I would say this, that the exposure that you would need on newspaper advertising and radio and television, I can't see a county the size of Nueces how it would appreciably change, if you had three single member districts or one multimember district in that county. You can't buy television time that is going to go into a third of the county. It's either on the air for everybody or not on the air for anybody and they are not going to give you any cut rates because you are only running in a third of the county. So, if you are going to have any television exposure then you have got to buy the same time that you buy for anybody else. So that I don't -- I don't see that breaking up the multimember district into a single member district in the county of the size of Nueces -- I just don't think it would make an appreciable difference on the cost of campaigning. It might change the direction of your campaign a little bit. It would do that, but basically the cost -- I think you can make a campaign in our county on a small budget now and still be successful. I don't believe you are going to see any substantial savings in it by dividing

the county into the smaller districts. It might concenivably do -- have the other effect. I could see how you might very well end up spending more money in one of these little wards because of the fact that the smaller units you break it into the more and more personal it tends to become and in many instances the more money you have to spend to make that contact.

Q Let me ask you one last question. In the unlikely event that a court should declare that Nueces County should be cut up into three districts, the court would obviously be faced with several options. They could say that the cutting up would immediately under court order or the court could rule that the legislature would be directed to reapportion in accordance with the court ruling at the next meeting of the legislature. On the upcoming elections, they would still be carried out under our present plan. Keeping in mind that the Constitutional Convention of Texas is coming up again the beginning of January and keep in mind that our elections would be held in May, what is your opinion on the amount of hardship that would be caused, not only in your county, but in other counties if you were confronted with a new redistrict situation in January or February or whatever time the court rule might come down

A It's always more difficult to run in a new district. I would be less than honest with you if I didn't say that as far as I am personally concerned, I think it would be minimum. I think I have run enough races in Nueces County and I have been in politics long enough there, I think I know the county like a book, almost precinct by precinct. But for the average member of the legislature that has only been in office two years or maybe four years, or at the most, six years and whenever you get up to six years, you are covering practically all of the members of the House except for a handful who haven't had that broad background on it and you suddenly give them a new district or they have been running county-wide, and you narrow them down into a little area, they have got a whole new ball game, and if they really intend to get re-electe they are almost going to have to start from scratch on a completely and totally new campaign and a new type of campaign and a complete new thrust to it; and with the problem of creating a new complete new political image I think it would work an extreme hardship on them to order them into a single member district right on the eve of this constitutional convention. I think I can predict, with a fair amount of assurance, what will

happen to those people if that happens.

MR. RICHARDS: Note our objection to the predictions of what is going to happen.

A I think you are going to find that this constitutional convention is going to have a lot of absenteeism in it for members who are in that category that they are going to be up there campaigning for re-election rather than down here trying to re-write the Constitution of Texas, and I think that would be disastrous for Texas, as a whole, if that situation comes about. I would hope that the court, if they do feel that this county is one that should go to single member district and which, obviously, from my testimony I do not think it should. I think we have demonstrated a clear case here of where there has been no pattern of discrimination, no way that the multimember districts in this county have been used to discriminate by sex or creed or religion or color or party or any other way. And for that reason, I don't see that there is any evil in our multimember districts and I think there is a lot of good in them. I think the good far outweighs the evil on our side. I am not arguing about any other county

now, just about Nueces County, because that's the one I am familiar with in some detail. So I would hope that the court does not see it that way and does see fit to order these districts. They would give us the opportunity at the next session of the legislature to go to single member districts. We can do it in the legislature if we are told that we must do it. Every time the court has told us at our legislature collectively and it's hard to get collective action in the legislature on these things but every time the court has told us that we must move in this direction, we have moved. Now, we haven't always moved in the way that some of them would like for us to move, but I think that if we had an opportunity to do -- take legislative action on this, that if the court says, we think multimember districts is unconstitutional in Nueces County and we are telling the legislature to do it at the next session, I don't think they would ever have to do it. We would do it at the next legislature. And do it in a way that is acceptable to the court.

Q Mr. Hale, I want to think you for giving your time and effort for this information to the court.

A Let me say one other thing, too, and I really -- I got off on your question about hardship and the next time.

If the court is going to, on its own, order single member districts I would hope that they would at least delay those past the next election and let us at least get by this next primary because we are talking about only a few months until the next primary and with this Constitutional Convention, we are all going to be engaged in in January. I have made on the average one trip to Austin every week ever since the legislature adjourned about the first of June working on nothing but planning and trying to set up this Constitutional Convention and get it going and we are going to have our hands full on it this next spring and it would -- it certainly be a real handicap for us to have to concentrate on that at the same time having to fight a re-election campaign in a totally new district, and I would hope the court would not put us in that situation even if they see fit to order single member districts.

MR. YORK: Thank you, sir.

EXAMINATION,

By Mr. Richards:

Q Well, let's see, Mr. Hale. The last legislative session had a crack at this issue of cutting up the rest of the state into single member districts, too?

A Yes, sir, we did, but of course, we were not under a court decision that multimember districts were unconstitutional. As a matter of factor, the U. S. Supreme Court, as you know, is now in that case and said there was nothing discriminatory about multimember districts per se, that in the absence of some clear proof of use in that direction that there was nothing wrong with single member districts.

Q Are you aware that while you were in session you were, in fact, operating under an extent court order which said: One, that Dallas and their county districts were unconstitutional and had implemented a new plan and, two, had said that, in fact, the entire state redistricting plan was unconstitutional. That that was the operative court order throughout the term?

A Yes, sir, but we also knew that case was on appeal.

Q All right.

A And we suspected it would be reversed and it was reversed.

Q So, it was your prediction and that's why you held off was the fact that it was in the appellant process because you, as a legislator, decided you would rather gamble on the judicial outcome of that redistricting, is that right?

A No. When you put it back on an individual basis, no, sir, that's not true. What I am simply saying is that it's -- the legislative body is a peculiar animal and you have got 150 members in the House and 31 in the Senate representing such a variety of background of cultures, political philsophies, geographies, economics, and that to try to move them in a given direction is extremely difficult, and if we had had a court order to the effect that you must go to single member districts, we would have passed a bill on single member districts just like in 1965 when they ruled our Reapportionment Act unconstitutional and said you have got to redo it, we redid it. We didn't particularly like it and we had -- we had a lot of arguing and debating back and forth and we didn't come out with a bill that everybody liked, but at least we did the job as best we could under what we thought was the necessity of that court order. And I think the --

Q What you're really saying is that it is going to take a court injunction mandating the legislature to redistrict in a single member district before the legislature will do it?

A I think that as far as Nueces County is concerned, my position as a member of the legislature has been, is today, and will be tomorrow, that our county and the people therein, including the Mexican-American, Negro, and other minority groups.

Q I believe you are getting around to my question.

A Are all better off under our present multi-member district arrangement than they would be under single member districts.

Q Let's take a stab at my question now.

A Well, I am coming to your question.

Q You answered a moment ago the legislature will do it but only if it is under a specific court degree, wasn't it?

A I think that as far as the single member districts, my position would be, in Nueces County, that if the decision is left to us as a legislature, our judgment is, has been in the past and is now, that for Nueces County multimember districts are the best. Therefore, if the court leaves that judgment to us, we will leave

it as a multimember district. If the court says we are not going to leave that judgment to you, we think that judgment is wrong, that you must go to single member districts, then we will go single member districts. We will obey the court's decision on that, but the court has never yet told us that our judgment is wrong as far as Nueces County is concerned in our contention that multimember districts are the best.

Q Then we are to understand from the testimony before as to this question was limited to Nueces County and you were referring only to Nueces County?

A Well, I am -- I don't know what the question went before. What was that?

Q Well, we have been at this for awhile now. You told us, I thought, that the court ought not to implement any single member districts, that they ought to leave it to the legislature?

A No, I don't know that I did say that.

Q What did you say?

A I would say, I think, that, I think, that it would be preferable for the court to allow the legislature to do it if it feels that the changes should be made for the reason that I think in the legislature you will find a better cross-representation of the conflicting

political philsophies and conflicting views of the people that you would come up with a product that would more nearly fit the needs of the state than you would for the court to do it itself. I feel it would be better for the legislature to do it. I think it would be more receptive to the public if the legislature did it. Sometimes we need a little prodding to get us to do things and nobody recognizes that more than I do as a long-time member of the legislature.

Q Am I correct that it has been customary in the past, at least according to the testimony in previous cases in a county's delegation or in a district's delegation, within that delegation agreed upon a plan for reapportionment or redistricting that that then was accepted by the body as a whole?

A Well, it's certainly persuasive. I can say this, that we have had some debate on Reapportionment Bills where that certainly wasn't true. For example, if you will check the House debates on the last Reapportionment Bill, you will find in there an amendment, which I offered, to the Reapportionment Bill in which I was violently objecting, and my speech is tape recorded over there and is on tape, and I was violently objecting to the way they did Nueces County in the last

Reapportionment Bill, but I was defeated on the floor of the House. Even though our delegation wanted it a different way, we didn't get it that way.

Q This was the one later declared unconstitutional by the Texas Supreme Court? The 1972 bill?

A 1971.

Q '71, yea.

MR. YORK: Another good prediction.

Q Was that the basis of your prediction?

A No, no. Not on our county, but I was -- I was criticized in one of these books put out by Capp, what was the one shed on the Alamo, because of my proximity to Mr. Mutscher, and I was quoted in there as having admitted, in private, that the Reapportionment Bill was an atrocity yet I defended it like it was the work of Moses on the floor of the House when the record reflects that I voted against it and I voted for practically every amendment to it, and I offered one amended myself and got on the floor and really castigated the Chairman of the Reapportionment Committee on some of the content of that bill, and Mr. Capp said I defended it like the work of Moses.

Q You may have done this so I am clear, I take it from your recitation of the history of Nueces County the first republican to ever be elected in a general election to the legislature was Scoggins in '66, as a consequence of a general election?

A Well, I won't say he was the first republican ever been elected. In recent time in our legislative delegations, he was the first one, yes, sir.

Q I am not carrying you back beyond the point of your own recitation. I take it that the first Mexican-American to have been elected in that delegation to the legislature was Tony Bonilla in '64?

A That's correct.

Q All right. So, I am assuming that just because of, really, by the absence of other comments, the only other Mexican-American to have served in the delegation was Carlos Truan, first elected in '68, and currently in office?

A This is true.

Q And also assuming, I suspect, accurately that none of the legislators have been black from that district?

A That is correct.

Q I take it that Bonilla, you told us, was defeated in the democratic primary by a Mexican-American by the name

of Gonzolas?

A Yes.

Q Gonzolas, in turn, lost to Scoggins in the election?

A Lost to Scoggins in the general election.

Q Was he defeated in the general election of '64? I take it he was elected in the special election of '63. He must have run a general against either Bonilla, Kalger, or Hale, or Peeler. I assume he didn't run against you?

A He ran against Bonilla, I believe.

Q In '64?

A I believe Bonilla beat him in '64, if I am not mistaken.

Q Did he, right off the top of your head, fine, if you don't we can leave blank and you can write it in the record.

A I am sure it was Bonilla and Scoggins in that race.

Q I have since -- you are so adamant about District 48, let's talk about District 41. Where does it run? Does it run all the way to Hidalgo County? Where does it run, I can't get that straight in my mind.

A 41 is represented by Leroy Wheating and it goes North of the county and takes in San Patricio County and Aransas County.

Q Goes to the North, all right.

A I believe, and maybe one other county. I am not sure. He's got San Patricio, Aransas, and a little part of Nueces county.

Q But this district runs North, is that right?

A Goes to the North of Corpus.

Q Who's in the district that runs up to Kleberg County now, to your South?

A Greg Montoya, Representative Greg Montoya, represents that district and it includes Kleberg County and, let's see, going South from Kleberg, I believe, I believe he includes Kenedy County and part of Hidalgo County.

Q That's the district he picks up?

A Yeah, I think he picks up part of Hidalgo County there. I think you all took McDonald's deposition here the other day.

Q I was not present.

A He represents part of Hidalgo County.

Q Hidalgo County is actually cut into three different pieces, as you recall?

A I am not sure. I was thinking they were similar to our situation where part of the county had been taken off and the rest of the county is multimember. I could be in error on that.

Q Okay. I would assume that you would agree with me, from looking at the complexion of this delegation, the incumbency is a mighty strong factor in excess of the candidates there. Have there been any incumbents unseated in recent times?

A Yes, sir, there have.

Q Who?

A Well, let's see.

Q Other than Scoggins?

A Gordon Forsythe was defeated for re-election in 1958. James Kalger was defeated for re-election at the end of this third term, whatever that date was. I believe about 1966.

Q That would have been by --

A Bridges.

Q Bridges. Okay. I got you.

A Let's see. Tony Bonilla was defeated for re-election on the second term. Scoggins was defeated for re-election on a second term, or what amounted to a third term.

Q That would have been Farenthold defeated Scoggins in '68, is that correct?

A That's correct. And let me see. Curtis Ford did not get beat for re-election. However, after he ran for

the Senate and got beat, after two terms, and then he later ran for the House again and lost. So, he wasn't -- he was not running for re-election, but it was an ex-member that got beat.

Q He wouldn't make the comeback that you and Bridges made?

A He didn't make the comeback that Bridges and I made, true, and surprisingly enough, it's a lot more difficult to win a race after you have lost one than it is to start out from scratch. Scoggins overcame that hurdle though. Scoggins lost one and came back and won one. After having served a time -- let's see if there is anyone else that has been defeated.

Q What has been the pattern in terms of the incumbents? Have they typically been opposed or unopposed to the, say, ten years? How many times have you drawn an opponent after your --

A I can't explain this and I say this with all modesty, but I am one of the few representatives down there who has consistently been able to get by without an opponent. I had an opponent when I first ran in 1952. I had one in 1956 and then that was all until I ran for the Senate in '62. So, that's twice that I had opponents in 10 years. Then, when I ran in '64, of course I was on the outside. I had a whole bunch of opponents then,

and then in '66 I had one opponent, and I haven't had one since. So, I have had four opponents in, what, 20 years, but you look at all the others. For instance, Bridges had an opponent every time he ran down there. Scoggins had one every time he ran, Bonilla had one every time he ran, and Travis Peeler, I believe, had one every time. Travis might have gotten by once without an opponent. Most of the other representatives had had consistently opponents.

Q Different opponents, of course?

A Yes, in the primary and occasionally a republican opponent. There have been a few republican candidates for the legislature through the years but, as I said earlier, it was very spotty and more or less on the individual basis, apparently. Again, sort of like in the democratic primary -- somebody just decided they wanted to run for legislature and run as a republican, so they just announced and ran.

Q But I take it the Republican Party has not been regularly fielding, regularly fielding full slates of candidates for the legislative places, then?

A No, sir, they are certainly not full slates and to the best of my knowledge, I don't think they have ever fielded anybody down there. I think the ones that ran

are ones that just decided that were going to run and went out and started soliciting votes.

Q On their on?

A On their on, I think. Although, I am not privileged to the decisions of the Republican Executive Committee in that county but, from all outward appearances, it was just isolated cases where someone wanted to run and started running.

Q How many registered voters are in the district now, did you say?

A Well, I didn't say because I am not sure. Let's see. Seems like to me this last time, I believe, we registered, registered voters you are talking about now?

Q Uh-huh.

A Seems like to me we registered somewhere between 70 and 100,000, I believe, somewhere in that area; but I could be off on that. I am not just -- I believe the county population in the last census was 237,000, I think. Does that show on here?

Q Yea, it should show on there.

A Yea, 237,554.

Q Then there are about 18,000 out in the legislative district, is that right.

A It's roughly about 18,000 that was taken over and put

into Leroy Wheating's district, in District 41 out of the county. So, that would leave, roughly, about 200, round figures, about 220,000, about 218,000.

Q And your estimate of those is between 90 and 100,000 registered voters?

A But that registration figure probably includes the whole county. It is put out by the Tax Assessor Collector and he would register the whole county, I think.

Q Yes, I expect so.

A But I am just shooting from strict memory on that voter registration. Seems like to me, I vaguely remember seeing a figure last year about the total registration being somewnere better than 90,000. Does that sound about right on 237,000? We ought to get a 100,000 registered, shouldn't we?

A I think I helped run a registration drive down there a couple of years ago and it was a state-wide drive concentrated down there and seems like to me we were shooting for 100,000. I am not sure whether we went over.

A Apathy is the worst evil of good government everywhere you go. It's a shame.

Q You were discoursing on single member districts in the

necessity of using tbe media. Are you aware of a legislator by the name of Jim Mattox, a legislator in Dallas County?

A Oh, I know Jim, yes sir.

Q Are you aware that he beat an incumbent in Dallas County in a similar district without any use of media to any extent?

A I probably knew who he ran against -- I don't even remember now who he ran against.

Q He ran against Sam Coasts, C-o-a-t-s.

A C-o-a-t-s. I remember Coats, who was a one term member of the legislature and I understand, I was told that Coats didn't even live in the district that he was running in when they got into that single member district and that would be a handicap, I would think.

Q And you and Joe Salem live in the same block, is that correct?

A Yes, sir.

Q In what census tract?

A Well, let me see.

Q Can you just tell us?

A In Census Tract 27.

Q That's all I have. Thank you.

MR. RICHARDS: I am reserving other cross until some later time.

MR. YORK: Well, we disagree to that proposition. We feel like adequate notice under the terms of the way these things have been set up was given.

MR. GEORGE: I have one question.

EXAMINATION

By Mr. George:

Q Mr. Hale, have you ever had a republican opponent?

A Yes, sir. One time in 1964 when I was trying to get back into the House. I had opponents in the Democratic Primary and also in the Republican -- general election. That's the only time.

MR. GEORGE: That's all I have.

(Witness excused.)

STATE OF TEXAS |

COUNTY OF TRAVIS |

I, Dwain Coffey, Notary Public in and for Travis County, Texas, do hereby certify that the facts stated by me in the caption hereof are true, and that the said witness did make the above and foregoing answers in response to question propounded as shown, and that I did, in shorthand, report said proceedings, and that the above and foregoing typewritten pages contain a full, true and correct transcription of my shorthand notes taken on said occasion.

WITNESS my hand this the 26th day of November, A.D., 1973.

_____

Notary Public in and for
Travis County

* * * * *

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF TEXAS
AUSTIN DIVISION

WHITE		
VS.		CA NO. A-71-CA-143
REGESTER		

APPEARANCES:

MR. GEORGE J. KORBEL
Mexican American Legal Defense and
Educational Fund
501 Petroleum Common Building
201 North St. Mary's Street
San Antonio, Texas, 78205

COUNSEL FOR PLAINTIFF

MS. ELIZABETH B. LEVATINO
Assistant Attorney General of Texas
Supreme Court Building
Austin, Texas

COUNSEL FOR DEFENDANT

Deposition and asnwers of TRAVIS PEELER, who resides in Nueces County, Texas, taken herein by the counsel for the Defendant, before RONNIE VERNON, a Notary Public in and for Nueces County, Texas, on the 27th of November, A.D., 1973, between the hours of 4:00 p.m. and 5:00 p.m., in the Commissioners Court Room, Nueces County Courthouse, Corpus Christi, Nueces County, Texas, in accordance with the following stipulations and agreements:

IT WAS AGREED by and between counsel for Plaintiff and Defendant in the above numbered and styled cause that all formalities, including issuance of notice, are waived specifically, and that the oral deposition of TRAVIS PEELER, may be taken herein forthwith before RONNIE VERNON, a Notary Public in and for Nueces County, Texas, said deposition being taken with the same force and effect as though all requirements of the statutes and rules had been fully complied with.

IT IS FURTHER AGREED that no objections need be made by any party at the time of taking said deposition; except objections as to the form of the question and leading questions or the responsiveness of the answer; but if and when said deposition or any portion thereof is offered in evidence on the trial of this cause by any party hereto, it shall be subject to

any other legal objections, such objections to be made at the time of the tender, the same as though the witness were on the stand personally testifying.

IT WAS AGREED BY AND BETWEEN COUNSEL and the witness, that the signature of the witness hereto is waived.

IT WAS FURTHER AGREED that after said deposition has been returned into court in accordance with these stipulations and agreements, it will be treated by the parties hereto and may be used herein with the same force and effect as though all statutes and rules relating to the taking and returning into court of depositions had been fully complied with.

MS. LEVATINO: We will stipulate that the signature may be waived and objections to questions as to form and substance may be made at this time.

MR. KORBEL: That is fine.

TRAVIS PEELER,

having been first duly examined, cautioned and sworn upon his oath to tell the truth, the whole truth, and nothing but the truth, testified as follows:

E X A M I N A T I O N

BY MS. LEVATINO:

Q State your name, please.

A Travis Peeler.

Q Are you a resident of Corpus Christi?

A Yes.

Q How long have you lived here?

A Eighteen years.

Q You are an attorney?

A Yes.

Q Practicing in Corpus Christi.

A Yes.

Q You have served as a member of the Texas Legislature

from Corpus Christi for four terms?

A Yes.

Q What years were those terms?

A I was elected in 1960 and served until '68 and did not run for re-election.

Q Were you involved in politics in Nueces County prior to 1960?

A Yes.

Q In what areas?

A I worked to some extent in a campaign for the Texas House of Representatives and I worked in a mayor's race.

Q When would you estimate your political work began?

A In 1958.

Q You are presently the Nueces County Democratic Executive Chairman?

A Yes.

Q And you were elected when?

A 1972.

Q Mr. Peeler, when you ran your campaign for the House of Representatives, beginning in 1960, did you contact any specific group for securing their support prior to your determination that you were going to be a candidate?

A Yes, I sought out different groups, including a

group of business men here in Corpus Christi and the founder of the American GI Forum, Doctor Hector Garcia, and labor union leaders among others.

Q So you really contacted a number of groups in the area and informed them you would like their support after you announced for your candidacy?

A Yes, diverse groups.

Q There was no group that was slated as the group that you would go to before you announced?

A There was a downtown businessman's group of executives and so forth who supported, and I assume perhaps still do support, local candidates on occasion.

Q Was it essential that you have that group support to win?

A No, it was not. Some of the candidates for the legislature did not and never had that group support and I did not have it the last time.

Q Would it be fair to say that there is no one or two slating groups that determine who the candidates will be prior to their filing for candidacy?

A That is right.

Q There are groups that support a candidate after they have filed?

A Yes, they do support them afterwards.

Q Would it be fair to say that these groups have supported both Anglo and Mexican-American groups since you have been in Corpus Christi?

A Absolutely.

Q Can you give me an example?

A They supported me once, they supported Tony Bonilla, a former representative.

Q Who are you talking about?

A The downtown businessmen's group, for a lack of a better term.

Q Do they also endorse candidates in local races and county races?

A Yes.

Q And they also supported Mexican-Americans as well as whites?

A Yes, members of the NOW Party, for example, they supported as a group, all six of them. There were three Mexican-Americans, one Black and two Anglo.

Q Did you announce your candidacy in neighborhoods which would be termed Mexican-American as well as Anglo-American groups?

A Absolutely. It is necessary, when you have a diverse population such as we do have in Nueces County, to talk to different groups. Mexican-

Americans are concentrated in certain portions of the city and county and one running for office needs to seek out different groups to try to achieve some understanding before, if he can.

Q Would you say from your experience in political systems that the Mexican-American candidates seek out support and help of Mexican-American groups as well as white leaders and groups?

A Mexican-American candidates?

Q Yes.

A Yes, I would say most definitely.

Q Would it be fair to say that candidates must appeal to the entire area and leaders with various identifiable segments of that society?

A That is true. I don't think a candidate could ignore -- he could not ignore, for example, the Mexican-American portion. He would have to seek their support. Conversely, a candidate of Mexican-American heritage could not ignore the Anglos because he will have to have their support as well.

Q Would you say this would continue when the candidate, if elected, was elected, and would be a factor in determining how to vote?

A It has been a factor and has, I think, affected the voting patterns of the representatives from

this county.

Q Could you give us a specific area where you see this illustrated?

A Yes, I remember a very conservative representative from Nueces County and how he voted as to the abolition of the poll tax. He voted for it, however, his conservative philosophy would have prevailed otherwise, but he voted to abolish it.

Q In your experience in the Texas Legislature and from what you have observed from being Democratic Chairman, would it be issues that they voted for that would be of a concern to Mexican-American groups?

A Yes, as a matter of fact, the fact that representatives do represent the entire county, I think, makes them more sensitive to the needs, for example, of Mexican-American citizens here. I know that politicians don't just seek out one segment of our society here in this county, because the Mexican-American is a substantial amount of the population and candidates have to have some sensitiveness to their needs.

Q Have you, as a legislator, or as well as Chairman of the Democratic Party, had dealings with regard to how their delegation was responding?

A On occasions, I have known of instances where the leaders of the Mexican-American portion of our population have criticised individuals in the delegation. I don't remember any instances of Mexican-American leaders criticising the delegation as a whole, I have never heard of anything like that.

Q Just for a moment, Del Mar College is a Junior College within this area, is that correct?

A Yes, it is a Junior College.

Q And that college is integrated?

A Yes.

Q Do you know approximately when that college was integrated?

A I would not be able to give you the year, but I know it was before the Brown case and it was done by the Board of Regents of the college.

Q Do you know of any instances within the last ten or twenty years in which the city council, as a governmental body, has authorized any kind of discrimination with regard to the use of public facilities by Blacks or Mexican-American people?

A No, I do not. I came here in 1955 as an Assistant City Attorney, and I know of no instances where authority was used by the city to, for instance,

let black persons use the gold courses or any other facility.

Q And are the public facilities generally integrated as to their use?

A Yes, with this reservation. I cannot direct myself to anything regarding the integration suit filed by Mr. Cisneros against the Corpus Christi Independent School District. I don't have a knowledge of it. In other matters, I would say there has been no exclusion.

Q From your experiences as Chairman of the Democratic Committee and as a past political candidate, what type of activity have the Mexican-Americans undertaken in the party?

A A significant part of the Democratic Party, for example, people, about a third or better, at least a third of the precinct chairmen are Mexican-American. Several are Black. A substantial portion of the delegations to the county convention are Mexican-American.

Q Was this true prior to the county convention of last year also?

A Yes, Anglos, as I have been paying attention to party politics around here since 1964, I would say that Mexican-Americans have made up a substantial

amount of our county convention and delegates and delegates to the State Democratic Convention, but I can't speak about the Blacks there, because I don't know.

Q Has it ever been brought to your attention or been any concern to you or have you heard any criticism of the Democratic Party structure that would reflect an attitude of wanting to keep the minority groups out of the process of the Democratic Party?

A None that I know of. I heard of some criticism some years ago from Mexican-American leaders about the party structure, but none in recent years.

Q Would it be fair to say that the activities of the Mexican-American groups in Nueces County, as far as the Democratic Party is concerned, have been open and visible as well as the white participation?

A Yes, and no. Of course, in some places in the county and the city, participation is more vocal. You have, for example, people in some of the south side precincts were a large turnout occurred last year in precinct conventions. Possibly it related to some extent to conflict within the party as to who was to be the nominee. Some of it relates to the school integration suit, Cisneros versus the

Corpus Christi Independent School District.

Q Okay. When you speak of the south area, you are talking about the area which is primarily white?

A Yes.

Q Was there a high turnout in the Mexican-American precinct elections?

A I don't know. I didn't hear any reports.

Q But going back to my previous question --

A Excuse me. It depends on the leadership, you see, and getting the people worked up and wanting to attend. There was not really much last year to get the Mexican-American people among the leadership to get them to really go all out to participate in the precinct and county elections.

Q Going back to my other question, would it be fair to say that the Mexican-Americans have been active in the Democratic Party and have never been discouraged from working in the Democratic Party structure in Nueces County?

A That is right. As a matter of fact, the Twentieth Senatorial District, which is composed of Willacy County and Bee County and Nueces County, our caucus last year got four delegates to the National Convention. Among those was Paul Montemayor, Francis Farenthold and two Anglos. There were also

some delegates that were chosen at large and among those were Doctor Hector Garcia and as an alternate Rosa Garcia. You see, there has been a participation.

Q When a person goes to the National Convention, does he pay for his own transportation and lodging and so forth?

A Yes.

Q Would it be fair to say that at times people that wanted to be a delegate have chosen not to do so because of the expense?

A Yes, it is substantial. I imagine it would cost five to six hundred dollars for a person to be a delegate and attend.

Q And this would apply to white, black, brown, whatever?

A Yes.

Q Okay. And your campaigns and in campaigns which you have observed, have there been any issues which may be overtly racial in nature?

A In none of the campaigns of which I have been involved.

Q There has been no slurs or sayings like don't vote for him, he is Mexican-American, or do vote for him, he is Mexican-American?

A That is right. None of the campaigns of which I have been involved -- it is hard to say. There have been campaigns around here, one or two that -- well, how do you know?

Q Taking Nueces County as a whole, would it be -- what would be your opinion with regard to the way the people react to a Mexican-American candidate? Is it a fact that if he is a Mexican-American, is that going to be a determining factor of whether or not they will vote for him?

A Well, I know and you know that there are people with whom that is a factor. How big a percentage that is, I don't know. There are those people and there are also those people in this community, Mexican-American people and good people who will vote for a candidate who is on the ballot simply because he is a Mexican-American, even though you have an Anglo on the other side who has their best interests more at heart.

Q Would you say the vote is as the way it comes across free of overt racism?

A Yes. In the area of the plants, a number of Mexican-Americans who are Republicans have supported the other party candidates. In fact, last year, an effort was made by the Republicans to recruit

Mexican-Americans and a woman, whose name I can't recall at the moment, and she is from California, a businesswoman, who was appointed to a position in the Nixon administration, came down here last year.

MR. KORBEL: Mrs. Banuelos.

A And there were receptions for her by different ones and it seemed to me to be a strong effort to recruit a Mexican-American for a representative and it was a good effort.

Q So would it be fair to say this is a Democratic Party county?

A Yes, it would be fair to say.

Q When you were running, did you employ the use of radio, television and newspaper media?

A Yes.

Q Did you employ mail-out or did you go door to door?

A Not much mail-out, because that is expensive. I did some canvassing of shopping centers and that sort of thing.

Q If this district were divided up into three single general member districts, would, in your estimation, a candidate be able to ignore the use of any particular media?

A I don't think he could ignore the use of media. I just don't see how he could. You can't contact a representative district -- there would what, about 75,000?

Q Right.

A You can't get around to half that many people in a course of a campaign with personal effort, or even a valiant effort, I don't think, so I don't see how a candidate could totally ignore the media. You have to get to people, you know, to get your name to them. Just meeting a fellow once and handing him a card doesn't get his vote. You have to get them talking about the campaign and that sort of thing.

Q You have said that you felt that the delegation as a whole attempts to represent the district as a whole and the various elements of that district. What do you think the effect of a single district, or three different ones in this case, what effect would you think it would have in this situation?

A I think it would fragment this community more than it is. I think it would leave us one representative who would represent the interest of the Mexican-American, one representative who would be elected from Anglos, and whether he would repre-

sent the Mexican-American, I don't know, and another who would be elected from a part of both and I think under our present system members of the minority groups receive more attention to their interests and welfare than they would under a fragmented system. I am not opposed and I think it was right to have single member districts in Bexar County, Dallas County and Harris County, but I don't see it here in Nueces County. We are not a metropolitan area. I think the interest of the Mexican-American people, interests that I have tried to preserve and protect, would be harmed rather than helped by single member districts, and I believe that fervently.

Q It is true that Mexican-Americans can be and have and will be elected from a multi-member district?

A Yes, we have had several. We have had some representatives from here who are Mexican-Americans. In the last few years we have had also one of Lebanese ancestry. We have had a woman, and a rather outstanding one, I might add.

Q So the delegation -- is it your opinion it is sensitive and must respond to the delegation of the Mexican-American?

A That is right.

Q It would be possible, if cut up into three member districts, it would be possible for one or two to completely ignore whatever the interest of the Mexican-American might be?

A I think that is possible, yes.

MS. LEVATINO: I think that is all the questions I have.

MR. KORBEL: I have just a couple.

EXAMINATION

BY MR. KORBEL:

Q Now, you admitted, and I think correctly so, that there is a racial factor in elections in Nueces County, is that correct?

A Yes.

Q And would it be fair to say that in the past Nueces County has had numerous instances of discrimination against Mexican-Americans and Blacks, both institutionally and privately in all segments of life?

A Your question is pretty broad. Certainly, in a private area, certainly there has been discrimination.

Q In the United States District Court proceeding

in the school case --

A Yes, and I said I could not comment on that case, because I don't know that much about it.

Q Are you aware of the fact that until the '60s, that black only schools were maintained in Corpus Christi and children were bussed to those schools?

A Until when?

Q Until the '60s.

A I don't believe children were bussed to the black schools that late.

Q When do you think that ended?

A The black only schools, I am sure, into the '60s, I know, because I visited some of them. I think those, you know, and I don't know all of the background and I can't speak authoritatively, but, for example, Solomon Coles is over here in the black community and I could not tell you if the freeway was put in where it was to segregate the black people. I could not tell you that, because I don't know. It was an almost all black school, yes.

Q What about segregation in the municipal hospitals?

A I don't know anything about that.

Q The District Court found maintenance of separate wards for Mexican-Americans, and if a District

Court found that, you would not disagree with that?

A As a lawyer, I would not disagree with a court decision, no.

Q And are you aware that in Corpus Christi a separate Mexican-American school was maintained?

A Yes, at one time.

Q And there was one also in Robstown?

A There were elementary schools within the area of Corpus Christi populated predominantly by Mexican-Americans and those schools were, of course, overwhelmingly Mexican-American.

Q In any case, there have been instances of discrimination and I suppose we could add also real estate covenants.

A Those had not been enforced, Even title companies have not paid any attention to those in years, not since Shelly versus Quinton. I have not seen it and the biggest part of my work in law practice is real estate and estates and probate matters and that sort of thing. I don't remember seeing one of those covenants or a record of one after 1945. They all go back into the '20s and '30s.

Q But they were common in the immediate postwar years?

A Do you mean after World War II?

Q Yes.

A Yes.

Q Would you say that they had an effect on the pattern of residential segregation of Corpus Christi today?

A Yes, I expect so.

Q Do you suppose that effect continues over to today?

A I don't know how you mean.

Q Just suppose -- do you suppose that effect is enitrely evaporated?

A No, I could not say that.

Q Are you aware of any instances in the '60s through '72, of landlord refusing to rent to people because they were Mexican-American or Blacks?

A I don't know of any, but that is not to say that they didn't exist, but I don't personally know of any.

Q Would you say then that these past instances of discrimination against Mexican-American and others that we have not discussed would have an effect on the Mexican-American today and on the Anglos too?

A How do you mean?

Q On the views of Anglos toward Mexican-Americans, let's say. Past acts of discrimination by Anglos

against Mexican-Americans, does that have an effect on Anglos towards Mexican-Americans today?

A Yes, I am not a psychologist, but I suppose it does. It also has an effect on some Anglos who feel as I do that because of the acts of discrimination of some Anglos, we have got to try harder to eliminate discrimination; try harder to atone for these things.

Q But we can agree there are at least a certain percentage of Anglos who would vote against a Mexican-American in favor of an Anglo, no matter what the race?

A Some Anglos that would vote against a Jew, yes, a German, or whatever, but also conversely, --

Q But Mexican-Americans and Blacks are the individuals who have received the most discrimination in South Texas?

A That is right. They are repressed, I can't argue about that.

Q Would you say this repression has an effect on their effect in South Texas?

A Yes, but it is getting better and we are making progress.

Q But it does have an effect?

A It does in some counties in South Texas. I don't

think it does here, but down below us, it probably does. We have been fortunate to have some effective leadership among the Mexican-American people like Doctor Garcia in this area.

Q How do you account for the fact that only two Mexican-Americans have been, since reconstruction, have served?

A You are limiting it to since reconstruction?

Q Well, --

A Well, in the last twenty-five years, this has not been the case. You have not eliminated this by lumping it, but you are perpetuating it.

Q Doctor Garcia feels on occasion, he feels that 90 percent of the Anglos vote along racial lines, but you would not put it that way?

A No, I would not. I feel it is issue on issue and person to person. Well, you take -- well, Doctor Harold Branch, a black man, is a member of the city council. Doctor Branch carried most of the south side precincts of Corpus Christi. He could not have won otherwise. Well, there are you, it depends on the issue and candidates involved. I don't think you could make a blanket statement that 90 or 95 percent or 40 percent of the Anglos vote against somebody just because he is black or

a Mexican-American or whatever.

Q We had testimony from the former Democratic Chairman of Lubbock County and he said he would put the percentage of Anglos -- about 25 percent of the Anglos voting along racial lines.

A It depends on the issue. You are comparing apples and oranges. You take a candidate, and I am not trying to tell you prejudice doesn't exist, you know that.

Q Yes --

A But you take a candidate that attempts a broad appeal, and take for example, Eduardo DeAses, who ran for a District Judgeship last year, and he made a significant -- got a significant number of votes on the south side and carried some of the precincts there. Mr. DeAses is a man of ability and intelligence and he appealed. I am sure there were some people who voted against him because of the fact that he was a Mexican-American, but I am also sure there are Mexican-Americans who voted for him because he was Mexican-American and his opponent was Anglo.

Q All things being equal, if you had two candidates, one Mexican-American and one Anglo, would you say the Mexican-American would start at a disadvantage?

A You are trying to make blanket statements, or get me to make blanket statements. He starts out as a Mexican-American candidate and obviously starts with some disadvantage on the south side, but he starts with a terrific advantage too, you see, because, you see, 45 percent of the vote in this county is going to be Mexican-American. He is going to get 90 percent of that vote, you see, so he has it in his hip pocket.

Q And yet there have only been two Mexican-Americans in the last twenty-five years --

A Well, we have had a lot of changes in the last twenty-five years too.

Q Let's say in the last ten years.

A Tony Bonilla got beaten by Peaches Gonzales and then he was defeated. There are people alive today who are never going to get over that.

Q There is no question about that. If we are going to break down Nueces County in three relatively equal representative districts, would you say a Mexican-American in at least two of those districts would start at a less advantage than if he had to run county-wide?

A It is possible. In one district, he would have a shoo-in probably, but in another district he would

start with some -- well, how do you know, disadvantage or advantage, because some areas of Corpus Christi supported Governor George Wallace.

Q They would probably not support the Mexican-American?

A I don't know.

Q Now, you mentioned something about the precinct chairman, would those be from this area on this map identified as the corridor area?

A Predominantly, yes.

Q And other Mexican-Americans, those from the district races and justices of the peace races, those would be primarily from the Mexican-American areas? We can go through it race by race, if you want to.

A Although the commissioner's court has appointed some justices of the peace and county court at law judges, the last several have been Mexican-American.

Q But Mexican-Americans county-wide who were elected, you could probably count on one hand, could you not?

A I don't know. There are not many that is correct.

Q It certainly would not be more than two hands?

A Probably not.

Q Well, Bonilla, Truan --

A But how many have run?

Q Well, that brings up another factor. Do you

suppose the size of the district and the fact that Anglos vote against a man because he is a Mexican-American add up to discouraging the Mexican-American from running?

A Well, of course, you can go back to past years, twenty-five to fifty years ago, and Mexican-Americans have been discriminated against economically and you know that. This has kept them from participating. The Mexican-American has been suppressed and held down economically and that is a fact, but we are progressing and we have reached the point where more and more the situation is improving.

Mr. DeAses almost won last year.

Q Would you say he was the better candidate in that race?

A No.

Q But he still almost won?

A Yes, even though his candidate was one of the best trial lawyers in this country.

Q You said -- is it true that the first Mexican-American ever elected to a post at a regular Democratic convention was elected this year?

A Last year.

Q Is that correct?

A Delegate to the National Convention -- I don't know.

Last year was the first time I really -- it is the only year I could tell you who they were. I named them awhile ago. Is that not an indication of progress?

Q I don't know, sir.

Are you aware of who the delegates were to the Democratic National Convention in 1948 and '52?

A No, I am not.

Q So you would not know who the Mexican-Americans were who were on the so-called rump delegation that year?

A No, sir.

Q When Mexican-Americans do run, are you aware of some whisper campaigns that go on around the south side, telephone campaigns that say you should not vote because this man is a Mexican-American or also using the so-called catch words?

A I have known of telephone campaigns which take place, but these also take place against Anglo candidates. A close friend of mine ran for the school board at one time and there was such a campaign against him. He was angry about it.

Q But these do take place?

A I don't know how effective they are. Mostly, it is among women who don't have much else to do.

Q Would you say this Cisneros case and the threat of busing has had an effect of polarizing this community?

A To some extent, I expect it has.

Q Would you say that today, especially if busing is ordered here, the condition of Anglo and Mexican-Americans would not be as good as it was in the late '60s?

A That is possible. I am hopeful that is not going to be the case.

Q You are aware, of course, of the concerned parents and their drives and publicity, of course?

A Yes.

Q Would you say among the concerned parents that the threat and effect of busing would be to polarize the community and set them against Mexican-American?

A That is possible, I don't know.

Q It is not going to help matters any, the community is not going to come closer together, is that true?

A I don't know. You know public opinion, there may be some leaders in our community that will rally to try to bring people together. They have not as yet and it may happen. Who would have ever thought that in 1948 that Lyndon Johnson would be

President of the United States.

Q Maybe Lyndon Johnson.

A Touche.

Q And this downtown businessmen's group, are there any Mexican-Americans that are primary members of that group?

A Yes.

Q But they are primarily Anglo?

A I believe so.

Q You said you still have to use media, is that correct?

A Yes.

Q I am going to show you a map that is a portion -- if we had a map like this and these were the three equal districts, would you say that in district A you would still have to use the media or would you have to go door to door?

A You might in A be able to go door to door. This would be with a minimum of media.

Q And how about B?

A You would also have urban areas there and you would have to use some media there also.

Q The primary amount of population would be centered in B, is that correct?

A To a great extent, but I think you would have to

use some media.

Q If I told you 50 to 65 percent minority was in A and B, would you say that a Mexican-American or Black would be less disadvantaged if they had to run in that district than throughout the entire county district?

A Yes, I expect that is so, but I don't know that would get you any better representation.

MR. KORBEL: I would like to mark this as Plaintiff's Exhibit 1, Peeler.

(The above mentioned document was marked Plaintiff's Exhibit 1, Peeler, for identification.)

MR. KORBEL: I would like to offer this in evidence at this time.

MS. LEVATINO: No objection.

MR. KORBEL: That is all I have.

R E - E X A M I N A T I O N

BY MS. LEVATINO:

Q Would it be fair to say in your opinion that a significant portion of the feeling with regard

to the school problem is related to taking children from the neighborhood and busing them somewhere else? Do you feel there is a feeling of not wanting their children to be taken out of the neighborhood area and also the facilities they may need?

A Yes, there is a strong opposition to taking children and busing them to another school.

Q Which is based on the physical transportation and what kind of schools they are going to there?

A I think that is a good part of it.

Q On this map that was introduced, is there a high concentration in this C district?

A Yes.

Q Would it be perhaps in district A that one could go door to door and in B and C this would not be easily done.

A That is correct.

MS. LEVATINO: That is all I have.

MR. KORBEL: I have no further questions.

(SIGNATURE WAIVED)

The State of Texas
County of Nueces

I, RONNIE VERNON, a Notary Public in and for Nueces County, Texas, do hereby certify that the facts stated by me in the caption hereto are true; that the foregoing deposition of TRAVIS PEELER, the witness hereinbefore named, was at the time named, taken by me in stenograph, the said witness having been by me first duly cautioned and sworn upon his oath to tell the truth, the whole truth, and nothing but the truth, and later transcribed from stenograph to typewriting by Gail Duncan.

I further certify that the above and foregoing deposition as set forth in typewriting is a full, true and correct transcript of the proceedings had at the time of taking said deposition.

I further certify that I am neither attorney or counsel for, nor related to or employed by any of the parties to the action in which this deposition is taken, and further that I am not a relative or employee of any attorney or counsel employed by the parties hereto, or financially interested in the action.

WITNESS MY HAND this ___ day of _____, A.D., 1973.

_____

RONNIE VERNON
Notary Public, Nueces
County, Texas

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF TEXAS
AUSTIN DIVISION

* * *

CURTIS GRAVES, ET AL VS. BEN BARNES, ET AL	* * * *	CIVIL ACTION NO. A-71-CA-142
DIANA REGESTER, ET AL. VS. BOB BULLOCK, ET AL.	* * * *	CIVIL ACTION NO. A-71-CA-143
JOHNNY MARRIOTT, ET AL. VS. PRESTON SMITH, ET AL.	* * * *	CIVIL ACTION NO. A-71-CA-144
VAN HENRY ARCHER VS. PRESTON SMITH, ET AL	* * * *	CIVIL ACTION NO. A-71-CA-145
FRANK A. ESCALANTE, ET AL. VS. MARK WHITE, ET AL.	* * * *	CIVIL ACTION NO. A-73-CA-115

JAMES GASKIN, ET AL	*	
VS.	*	CIVIL ACTION NO.
MARK WHITE, ET AL.	*	A-73-CA-146

WANDA L. CHAPMAN, ET AL	*	
VS.	*	CIVIL ACTION NO. A-73-CA-155
MARK W. WHITE, JR., ET AL	*	

DEPOSITION OF ROBERT L. GILBERT,

given at the McLennan County Courthouse, Waco, Texas, on Friday, November 9, 1973, beginning at or about 1:00 P.M.

APPEARANCES

Hon. David R. Richards, Attorney at Law, 600 West 7th Street, Austin, Texas, appearing for and on behalf of Plaintiff Interveners Charles Wright, et al.

Hon. R. James George, Jr., Attorney at Law, P. O. Box 98, Austin, Texas, appearing for and on behalf of the Republican Plaintiff, Dr. George Wolliford, et al.

Hon. Elizabeth B. Levatino, Attorney at Law, Supreme Court Building, Austin, Texas, appearing for and on behalf of Defendants Brisco and Warren.

REPORTED BY: L. E. Gaskey, Official Court Reporter--Notary Public

AGREEMENT

It is agreed by and between the parties hereto who have their attorneys appearing herein that the Plaintiff Intervenor may take the deposition of the witness,

ROBERT L. GILBERT,

taking it under the assumption that all objections used at form of substance be levied at this time, and that it would be signed before any Notary.

DEPOSITION

ROBERT L. GILBERT,

after having first been duly sworn, testified as follows, to-wit:

DIRECT EXAMINATION

BY MR. RICHARDS:

Q. Could you give us your full name, please?

A. My name is Robert Lewis Gilbert.

Q. Lewis, L-E-W-I-S?

A. L-E-W-I-S.

Q. How old are you, Mr. Gilbert?

A. Thirty-two--I'll be 33 in December.

Q. I believe you told me you are a native of Waco. Is that correct?

A. Correct.

Q. You are presently employed as the Coordinator for the--

A. Association for Selective Career Opportunities. That is ASCO.

Q. What is that?

A. ASCO is a minority program that is primarily concerned with getting more minorities into professional, technical

and management type jobs, in the Waco area primarily.

Q. Let's see. It is uncomfortable for you to be that way. How would you be more comfortable?

I believe you told me that is funded by the Model Cities.

A. Right. We receive a grant from the Model Cities for the programs. After Model Cities' fund expires, we are in negotiations now for some private funds to continue the program.

Q. Okay. Before this, you were a counsel for the EOAC?

A. Right, I was with the Economic Opportunity Advance Corporation, working with the Intensive Counselling Program, which is primarily concerned with students who are having behavioral or academic problems, who are potential drop-outs and we are counseling them, trying to keep them on or counsel them into another direction where they could have some kind of future in a technical area or something.

Q. Was that in connection with the Waco Public School Systems?

A. No. This is one--it comes under the Community Action Program, which is one of the EOE funded programs.

Q. But is was concerned with Waco?

A. Right. It was concerned with Waco Schools as such.

A. Yes, I taught for three years at Tennyson Junior High. I taught Social Studies there.

Q. What is your--I forgot to ask you what your education background is.

A. I went for two years--well, beginning with high school, I graduated from Moore High School here and then I went for two years to Paul Quinn College and transferred to Baylor University, where I got a Bachelor of Arts Degree, majoring in History and minoring in English, and I have had 18 hours of post graduate work at Baylor. I also worked there as assistant Director to the Upward Bound Program at Baylor for nearly three years.

Q. That was what program?

A. That was also a government financed program which was geared for getting high school students who were potential drop-outs who were under achieved, but had maybe the IQ and ability to perform at higher level, and we were attempting to motivate them by various means, trying to develop new techniques. That was highly tutorial type.

Q. Was that directed specifically to the Waco community?

A. Right. It was directed, really, to--in the high school area. It was also a government funded program through Baylor University.

Q. Let's see. I think you told me also that you were one or more, or the only one, of the Plaintiffs in the current round of the school desegregation case involving the Waco Public Schools.

A. Right.

Q. Are you the Plaintiff?

A. I am the Plaintiff that can be found, yes.

Q. The rest of them---

A. When the heat got on, the rest of them--well, everybody started to disappear and nobody could find out where the other Plaintiffs were.

Q. You are the surviving one?

A. Right.

Q. I believe you told me that you had been active in political affairs in the Waco community.

A. Right. I would say about 1960 was when I first started in getting interested in working in campaigns.

Q. Have you been--is it fair to say since 1960 down to the present that you have continued to have an active interest in the political affairs of--

A. Quite active, with exception of maybe a couple of years there with health problems and I was not able to participate, but off and on, it has been consistently yes since that time.

Q. All right. I believe you told me that you were also

Chairman for the McLennan County Blacks for McGovern. Is that correct?

A. Right. First of all, we were--had an effort in trying to register as many blacks as possible in the McLennan County area. A certain amount of funds came in for the black community and I was heading up that part. It turned into a blacks for for McGovern campaign kind of thing and I was responsible for that.

Q. Just so--like I told you, we will have this established by census tract data elsewhere, but the basis heart of the black community is what is called East Waco?

A. Right.

Q. That is the area east of the Brazos River?

A. Right.

Q. I think you told me, though, that there has been a western migration of blacks across the river and moving on out to what I suppose is what, 10th or 12th Street in Waco?

A. Right. I would say that the area bordered by--let's see, Herring Avenue north back to Waco Drive, and then say to the River, the Brazos River, east, moving west to 18th Street, within that area of that block, you will find--this is becoming a very, very highly concentrated black area.

Q. This migration, I guess, has been taking place in the

last four or five years?

A. Yes, sir, four or five or six years.

Q. Now, we talked a little bit about the history in terms of black candidates for public office in the McLennan County area, and I believe--am I correct that the first black that ever run in this century for public office in the Democratic Primary was Dan Pell Evans when he ran for County Commissioner? Is that correct?

A. That is correct.

Q. I--we probably will have to chase that down. Can you remember about when that race was made?

A. It seems to me that it is somewhere in the neighborhood of '50.

Q. He was not successful?

A. No, he was not successful. As a matter of fact, there was quite a clamor about it because at this time it was an unheard of thing for a black to run for a public office in Waco.

Q. And there haven't been many since that day, I take it.

A. Right.

Q. There was a man named Haliburton who ran--

A. Right.

Q. --for one of the races for County Commissioner. Is that right?

A. Right. It was Haliburton. As a matter of fact, I think he probably tried twice and was quite unsuccessful.

Q. Other than those races, no blacks in Waco have filed for any offices in the Democratic Primary?

A. No.

Q. None have ever been elected?

A. No.

Q. As to the Haliburton race, if you can tell us, was he able to get any of the votes--any significant number of votes outside of the black community?

A. No, he was not. I think that was the main reason for his defeat because, as I recall, there was a lot of interest generated in the black community for this black candidate, and got a lot of people to work for him, and I don't recall what the percentages are at this point of the black turnout, but I remember it was quite high, but he had an overwhelming defeat in both of those races.

(Whereupon the hereinafter described document was marked for identification as Gilbert Deposition Exhibit No. 1)

Q. Mr. Gilbert, you are aware, aren't you, of a study that was done by the League of Voters here in Waco

concerning the history of the changes in the method of electing members of the City Council in Waco?

A. Yes, sir.

Q. I think you told me that you participated on a committee that was an outgrowth of this study for the purpose to challenge, or to go into the possibility of challenging, the legality of making those changes.

A. Right. We were primarily concerned with getting the system changed from at large election to the City Council to a ward system.

Q. I am going to hand you what has been marked as Deposition Exhibit 1, a five-page memeographed document. Do you recognize that as the study that was done that traces the history of the method of election of the City Council in Waco?

A. Right.

Q. Just summarizing with me, as I recall from the document, some time about 1948, I believe, the method of election of the City officials of Waco changed to a ward system whereby the Council would be composed of the members elected from wards throughout the city.

A. That's right.

Q. Then in 1950, the first black candidate ever filed for the office filed from the East Waco Ward under this new election scheme. Is that right?

A. Right.

Q. And I believe his name was Stewart.

A. Right.

Q. That although he want's elected, he got a reasonable or substantial number of votes in the election.

A. Right.

Q. And then immediately thereafter, the City Council, without explanation, changed the method of electing the City Council back to an at large system.

A. Right. It was the same year of this election that it was changed, and it was strictly initiated from a resolution from the City Council members. Usually when these kind of changes come up, some kind of a petition comes about to change the charter and things like this, but this was initiated within the City Council itself.

Q. I guess one of the conclusions that was reached by the League of Women Voters study was the only explanation for thechange was the fact that the Council feared that a black might be elected from the East Waco Ward?

A. I--you know, that is what the whole black community said the reason was for it, and I'm sure the League concurred with us, but that is what we all thought.

Q. This particular document that I think thereafter traces the election returns with respect

Waco Ward, I guess, right on down to the present?

A. Right, through 1970

Q. And as I recall, the document also reflects those candidates which were black candidates?

A. Right.

Q. In one instance, there were two black candidates, Radford and---

A. Dorsey.

Q. Is that his name?

A. And--

Q. As I recall, under that current scheme, what happened is, as I understand, the person would live in the Ward that runs at large and is elected city wide.

A. Right.

Q. As I recall, the Radford race and the Dorsey race, although both of whom were black, Dorsey got three times, roughly, as many votes in the East Waco black ward as Radford did, but Radford, however, was elected.

A. Right.

Q. I think you told us also, did you not, that there has been--in the Southwest Ward, there had been a Mexican American.

A. Right. Domingo Capetillo.

Q. In 1970, is that correct, in the Southwest Ward?

A. Right, and the same thing occurred that had happened in

the Dorsey-Radford situation. You had a predominantly Mexican American, or a highly concentrated area of Mexican Americans, who voted for Capetillo, but the rest of the community were the ones who ultimately made the decision as to who would represent them.

Q. And Capetillo lost?

A. And Capetillo lost, and also in the last election, there was a DeLeon, Videl DeLeon, who ran out there. I think he has run twice. The first time he was in the same situation that Capetillo was, and the second time it was made a little harder because at that time they had changed those lines where the Mexican Americans--it is even more difficult for them to get elected out there.

MISS LEVATINO: Are you introducing that? Is you do--

MR. RICHARDS: As a verification of the history--

MISS LEVATINO: The report issued by the--

MR. RICHARDS: No. It is to establish just what it shows. This is a history of the City elections

of Waco and the candidates and the votes they got, and to the extent that it characterizes their color, the color of the candidate, and it also shows the date the election, the ward in which they ran, nad it is for all those purposes as well as showing the sequence of change in the City Council--in the method of electing City Council, the history of the Waco elections in terms of method. I do not think there is a conclusion reached in here, if that's what you are troubled about, as to the purpose of change. The witness' testimony is to establish the structure. There is no purpose--I also, I guess, am offering it for the analysis as it was made as of the date of this study as to the composition interms of black and Mexican Americans on various commissions and boards.

MISS LEVATINO: This last is the thing--

MR. RICHARDS: The quotes and institutional races--well, I'm not offering it for the quotes and institutional races in America. The quotes in--

MISS LEVATINO: The conclusion--

MR. RICHARDS: No. That was just simply on this

page. I'm offering it for all other purposes.

MISS LEVATINO: Okay. We may have something else to offer.

Q. No black has ever been elected other than the City Council we discussed. There have been blacks who have periodically now served on the City Council, I suppose. Is that correct?

A. Right. Radford was the first and DuCongue now serves currently.

Q. But no blacks have ever been elected in the Democratic Primary to any offices?

A. No.

Q. Or hold any county office or legislative office of any kind?

A. No. I don't think any black has ever thought there was any hope for ever getting elected in the Democratic Primary. There hasn't been that kind of participation. There hasn't been that kind of feeling on the part of the blacks that they were even welcome in that type of participation.

Q. In what type of participation?

A. In the whole Democratic Party structure. I would imagine that you wouldn't be able to find blacks in this

town that knows what the processes are from the very beginning, say, precincts and so forth, and so on, as to what is involved in getting the candidate nominated. It is something that has been a closed door for blacks even though--there is no organized effort to penetrate that force.

Q. To bring the blacks into the process of the Democratic Primary or party? Is that right?

A. Right.

Q. I think you did tell us that there has been reasonable participation of blacks in the city elections where there was a black candidate; the turn-out was reasonably high, but the black turn-out participation in the Democratic Primary is relatively low?

A. Right, because unless there is a candidate that the blacks can identify with, I think there isn't that much motivation or enthusiasm about going to the polls and we just haven't had that many candidates that we could identify with.

Q. All right. Specifically in terms of the formulation of candidates who run in the Democratic Primary for the legislature or other offices, as you have observed it, has the black community had any input in that process, in selection of candidates who are going to file for office or have consulted about who has filed?

A. No, not at all. I think probably by the time that we hear about it, they have already filed and then they come to us and say you support us, but there is nobody that comes to the black community to seek out any advice as to whether or not--you know, what their possibilities would be for winning or anything of that sort. It is one time that you see this candidate and that is the time when election time rolls around and they need somebody--to get a few extra votes, but otherwise--and you don't see them again until the next election comes around.

Q. Well, is it fair then to say that at least as far as the black community as it relates to the legislative--the people that serve in the legislature from Waco, or have been, that there is little or no feeling of identification with the legislature; that they are not seeing the black community, and as far as the black community knows or is aware of, are not responding to black issues and needs?

A. Well, I will put it this way. I have--the times that I got out of school and from the time I have been participating in these things, and even through teaching school and all of this, there is not--there was no real way that I could even identify with the candidates and, you know, if I hadn't kept up with the newspapers

and stuff like that, I probably wouldn't have known who they were, and I think this is--there is no candidate up to the ones that are--up to the time of the legislators serving now, have I known them to even recognize the black community existed.

Q. I think we talked about the--well, I think I told you that there was a study done or a vote taken from the Democratic Primary ballot in about 1956 involving--the voters expressed the preference as to whether or not they wanted to maintain segregation in the public school system, and I think the City of Waco was 81% voting for retention of segregation. As far as you see things, do you still find a very substantial--a very substantial majority of the white community resisting desegregation of the public schools?

A. Oh, there is no question and I wouldn't --I'm amazed that it is as great as it was even though "liberal" people who were supposed always to be the champion of those kind of causes were not really with us on this issue.

Q. You mean in the current round of desegregation?

A. Right. The current round, and I would say the lines are clearly drawn at this point.

Q. Between the black and white communities?

A. Right, between the black and white communities, and

there is a strong, potent organized force to retain a dual system.

Q. What is your opinion as to the extent in which the black community effectively participates or doesn't participate within the political affairs of this county or city?

A. It would be to a very limited extent. There are one or two organizations that--say, like the Northeast Neighborhood Council, the local N.A.A.C.P., The Black Federation, all of these organizations, I think, are trying to do the same thing, but none of them has the power to do anything effectively because of the people in this town, blacks particularly, are so--in such a way of despair until--and they had so many defeats, one after another, until even I, you know, I have reached a state now where I am dropping out because of the lack of hope. You know, I have been out there for 12 years or so just pounding at this and I have reached a point that, you know, I see no hope to penetrate this system, this force. I see no hope in our getting our message over. After the Black Federation was not able to, and the Black Federation was probably as strong a force as I have seen in this community since I have been here, and due to the conspiracy of the media and everybody else, this was sabotaged and it lost its effectiveness,

and I say conspiracy, I mean during the whole school issue, the Federation would take certain positions and the media would print wrong--false statements, things they said I said that they hadn't even talked to me about. They would--we had organized for a boycott and the media confused people by printing that things were goint to be a certain day and they would be planned for another time. A whole air of confusion was brought on by the media and we have no way of getting our message to the people, and it was because of that that all of the fight that I have had in me has almost been stifled. It is a very frustrating kind of experience.

Q. Well, in that context, or in that connection, how would you characterize for us the attitude of the white man to the dominant black community with respect to its attitude toward the black community?

A. I think the main attitude of the white community is more of a paternalistic type. More of--if you don't rock the boat, if you don't ask any questions, they will dole out to you what they think you should have and that's it. I mean there is this idea--I like to describe it as we're living in kind of an agricultural setting and it is a plantation type atmosphere. It is the feeling that I got. Baylor is the epitome of it, you know. When I was out there,there might have been

two or three more blacks going to school at that time and you got the feeling that you were on this big plantation and whatever boss says, you know, that's the way it went, and you didn't feel a part of--I don't feel a part of the City of Waco as such. I mean, I'm here, but there is nothing that I can say or do that can influence what goes on in Waco. I find myself always in an antagonistic kind of situation and I always find myself being one in combat or something with somebody because--and I don't think it should be that way if the system was more open and the people like me, who are very easily put down, have images placed on us, which tend to make us lose some degree of effectiveness in the community.

Q. You think what you are expressing in terms of the attitude, the plantation attitude, is that characteristic of the paternalistic attitude--I take it you are saying that it gives you a predominant attitude of the white community toward the black community in this city or in this area.

A. That's the way I would characterize it.

Q. Is there an--I take it what you are saying, too, is that there is no real degree of partnership or joint effort of treating the black community on equality with them in political matters particularly.

A. Everything is token.

Q. Just as you have seen it, or based on observations in the past, political races in the nature of the racial attitude of the community, do you think there is any realistic prospect of a black candidate for the Texas Legislature, for example, running in a county-wide area, to get the Democratic nomination?

A. Not the way things are set up here now. There is no--I don't even--I haven't ever heard of a black talking about running for the Legislature.

Q. Even nuturing that ambition?

A. That is unthinkable; even to think about running for the Legislature. Now, the effort of those guys trying to run for the County Commissioners last year sounded way out, but to talk about the Texas Legislature, I don't conceivably see that. Not the way things are situated here now.

A. I take it at least--it might be fair to say that at least in part, there remains sufficient hostility in the white community that the blacks or black interests would have to try to overcome that hostility if you tried to make a--

A. He would have to do that or he would have to be a candidate that is not receptive to the black community.

Q. Disassociate himself with the black?

A. Right. Right. In other words, he would have to be, you know, like DuCongue is or like Radford was. I think one of the City Council members--well, yes. Ted Gutterman, who ran this last time, who ran one of these things where they were campaigning against--where all the candidates were there together, and Gutterman said he never did see Oscar and Radford as black men, you know, and this is the way they perform, you know. It is not a champion for the causes of black people and DuCongue has a philosophy that he expresses from time to time that you get in there and you give some and take some, and you bargain, and I can't get in there and just start talking about black issues because I will be out voted every time and I--I only have one vote, and he has to play the game in that manner. I personally feel that principals should have priority; the gut issues should be the ones that are faced and these things should be spoken to no matter how much opposition the matter should have I think it should be raised. I think it should always be before the people, but, of course, that is his philosophy and I have another, but a candidate--back to your question, a candidate that shows himself to be--shall I say, has lost his black identity, would have more success. For

example, the School Board, with these problems they are having at schools now, appointed a Blue Ribbon Committee to look into these problems. They hand-picked these people and not a one of these people came from the Federation. They didn't bother to pick somebody like Bishop Adams, who would speak out on the issues, but they picked somebody like Harvey who runs a black weekly paper here which doesn't speak for the black community at all.

Q. This was a committee that was picked by the School Board?

A. Right. The School Board picket it themselves and the black representative didn't represent the black community. They didn't want--I mean, they wanted somebody to whitwash--the black person they picked doesn't identify with the black community in any way.

Q. Does the black community identify with him?

A. And they don't identify with him, right. This is the whole tradition in picking Boards and Commissions. That has been done over and over again. The established people here, the power structure here, reach out and pick Rev. So and so, and they say this represents the black community, but we have been trying to say no, you know. We have people that we want to speak for us and these people are not speaking for us and the power people always pick their own leader, and I think the

problem that Bishop Adams himself had was that the white power structures were never able to tell us to shut up or manipulate us in any way, and I don't know what impact, you know, it might have had, but this is the reason why we stayed at an antagonistic--

Q This Bishop Adams, is this Bishop Adams who is the Chairman of the Board of the--

A Right. Paul Quinn College, and he presides over the District of African Methodist Church.

Q The two of you, I think, are sort of a joint leadership over the Federation movement. Is that correct?

A Right. Right, right.

MR. GEORGE: Can I interject a question here?

MR. RICHARDS: Go ahead.

MR. GEORGE: The Federation movement was part of the movement in the black community dealing with the problem of the dual school system?

A Well, that was a part of it, but when the Federation was first initiated, it started out as an effort to get all of the black organization in the Waco community together under one umbrella, and even though each one

would still retain its sovereignty, when it comes to issues that we were supposed to speak on to the community, we would all be saying the same thing at the same time, and that's what that was, and it wasn't just concerned with the school issue. The school issue just happened to be--in other words, I was not the Chairman--the Bishop and I were not the Chairmen of the Federation. We were just the co-chairmen of the education committee of the Black Federation. That was just a component and then we have an employment committee, which was to do a thing, and we just happened to be a component of that within the Federation.

MR. GEORGE: If I could continue with one more question on that--

MR. RICHARDS: Go ahead. I think I'm through, but go ahead.

CROSS EXAMINATION

BY MR. GEORGE:

Q When you talk about black issues, you are talking about issues such as the integration, desegregation of the public school system, equal opportunities for employment?

A Right.

Q Access to public facilities?

A Right.

Q The basic issues dealing with racial problems of the community?

A Right.

Q A couple of other questions to fill up here--Mr. Gilbert, has a Republican ever been elected to the State Legislature, to your knowledge, from this area?

A I don't ever recall a Republican being elected. This has been a strong Democratic hold and black Republicans and all other minorities haven't had a chance.

Q So, the Democratic Party is the primary political force in this area?

A Right.

Q Okay. Do you have--I believe you mentioned one instance about a Precinct Convention, and you may know of other instances in your knowledge, of political votes being along racial lines in this community?

A Yes. I think they are quite decided along racial lines. This is made more apparent when you have a black candidate running, you know, when you have an issue facing a black community.

Q You told me about a Precinct Convention once.

A Right.

A I was living in Precinct 4 then and we were in a minority there, and that was the beginning of my participation in this type of thing, and everything that affected the blacks was usually voted down and we really didn't have any--we didn't know who lawyer so and so was, who was presiding over there, and we didn't know the secretary, we didn't know any of the people who were running the show, and didn't even know how to get to run the show, and we were all there just voting on things and trying to be heard, you know.

Q So if a black person was nominated in the Precinct Convention, you would have a situation in which the blacks would be all for him and all of the whites would vote against him?

A Right. Right.

Q Do you, from your knowledge, know of any other --in connection, for example, with the desegregation of the public schools, racial tensions that have been evidenced in connection with violence, for example, in the schools which have racial overtones?

A There have been a number of reported incidents. You know, I get this from students talking and I get it through teachers.

Q In connection with your counseling and other activities?

A Yes, and things are really polarized.

Q This polarization takes place on the basis of whites antagonistic to blacks. Is that right?

A That's the way I see it.

Q Then, on the second--on another level, do you have any knowledge of any incident where a representative of this Legislative District has ever introduced or championed in any manner any legislative issue dealing with black problems such as desegregation of schools, drafted or in any way championed a bill dealing with equal opportunities for employment?

A I sure don't, and if he did, he wouldn't stand a chance to get re-elected again.

Q Do any of the current legislative delegates, or has to the legislative delegations in the past, come and ask, to your knowledge, you or other leaders of the black community, about what you think about a legislative bill such as that?

A Never.

Q Never?

A Never. Never. The only time that I have ever even received any correspondence from a legislator was in the Denton tenure. I think I helped him in the black community to get elected.

Q But this--

A But this was not a thing that, you know--where --all I'm

saying is that Lane--even Lane has not gotten on the wagon to support, I think, legislation that affects is directly.

Q Black issues pur se?

A Right. I think it is more for political purposes.

Q Well, somebody might present some issue that a black might support also, such as economic legislation or something that tends to be for poor people--I don't mean blacks are poor, therefore blacks would be for it, but a black issue such as segregation--

A None. Not at all.

Q There is no chance, and that is your opinion as an expert in your knowledge of working in this community, that a black legislator in this legislative district who champions such legislation would be dramatically defeated in the white community?

A He would be politically dead.

MR. GEORGE: That's all I have, I believe.

CROSS EXAMINATION

BY MISS LEVATINO:

Q I will try and make this short, Mr. Gilbert. A couple of areas I do want to pick up on, as long as Jim was

talking about this. Are you familiar with Tom Moore at all?

A Yes.

Q Had you ever worked with him?

A Not directly; sort of peripherally, I guess, but not directly because I personally didn't see Tom Moore as being genuine, even though he carried, I believe, a liberal--I personally had some reservations about him, so--it might be a personal hang-up. It might be that I was acquainted with him when he was a District Attorney and I knew how he treated the black folks there and I probably had a personal prejudice about him, but I never--I voted for him, but I never supported him.

Q Do you have any personal knowledge generally how he or Lane Denton, or Tom Moore, vote in, or their races in terms of vote turn-out in the black area?

A Yes. I would say that each of them got an overwhelming majority of the black votes.

Q Okay. Are you familiar with, or have you ever heard, the speeches made by both Mr. Moore or Mr. Denton with regard to the ousing issue in the legislature?

A I'm not sure that I'm aware of their speeches.

Q Would it surprise you to know that both of them had expressed opposition to a rider to the appropriations bill that would have eliminated the use of state money

for busing children to perpetuate desegregation of schools?

A You mean they were--

Q They were opposed to putting that rider--would it surprise you to know that they were opposed to putting that rider on?

A Not really, no. I don't think it would.

Q But you were not aware that they--

A No, I wasn't aware.

Q Let me ask you--do you have a ballpark figure or a specific figure as to what the percentage of blacks are either in--the total population here in McLennan County or Waco proper?

A Yes. I think McLennan County has about 17% and in Waco proper about 22%.

Q Okay. Would you say that McLennan County--you mentioned there was an area of Waco that was predominantly black. Would you say that most of the blacks in McLennan County would be found in that area?

A Right. I think so. In the East Waco area, probably you would find the greatest concentration of blacks.

Q Okay. Approximately how many precincts would that cover?

A Oh, that would cover 10; 10-A; 10-B, which is predominantly white, Italian and other interests; 10-C;

and maybe 10-D, and that's it. I believe that's it.

Q Okay. It is my understanding from the exhibit that was introduced earlier that under your present City Council form of government, candidates for City Council must live in certain areas, but they are elected at large.

A Right.

Q In other words, everyone in the city gets to vote?

A Right.

Q And you have elected, without going into what you expressed before, your opinion of people who were elected, you have--blacks have been elected to the City Council under the resident requirements and at large voters. Is that correct?

A Well, they have been elected, but I think it has been not necessarily the candidate that they wanted. I think it is a case of Radford, who was the first one that was elected, it was just a situation of who you had. I think there was maybe three candidates in that race; two blacks and one white, and it was a time where probably the black candidates were more qualified than the white candidate in the first place, and there was also a time where the community felt that, you know, this is the time we should have one token black in there, and we've got a doctor, so, you know, this guy would be a fairly safe guy to go with, and I think

this is how Radford was able to go in and even at that point it was a generated enthusiasm for the blacks to turn out and vote, and I think they probably overwhelmingly voted for Radford. I did the first time because it was a novelty and I felt that Radford, being a dentist, would be able to be independent and at that time I was very immature in my political thinking and this sort of thing, and I thought the fact he was making his own living, he could pretty well speak with the issues, but he changed dramatically.

Q But the mere fact that a person was black as opposed to white did not prevent him from being elected?

A No, because I think the odds were in his favor. I mean, the time was right for blacks to come and I think the City recognized that, you know, if you've got two guys running in a race, two are black and you have three running, that those black folks over there should have somebody on there.

Q Okay. Now, if just for example in the City Council races not only did you have to reside in the area, but also the election was just from that ward or that area, how many other blacks do you think could be elected from the City of Waco?

A If it would be pure ward election?

Q Right.

A I would say that there would be a very good possibility that there would be two blacks on the City Council.

Q Out of six; is that how many?

A Yes. There is a strong possibility that two blacks, or either a black and a Mexican American, or some composition of that because I am basing that on Precinct 11 becoming increasingly black, and there is a possibility a black candidate could win in that area and you would always have this East Waco area.

Q Then you mentioned the fact that most of the City Council Board appointments, the Blue Ribbon Committee and so forth, is done because of the majority of whites on the council. Would it be fair to say that even with the--from the situation we were talking about, the possibility of two blacks or at least a black and a Mexican American, that it would take a certain kind of perhaps educational or attitude change, more than just having two people on that Council together, the kind of Board representation that you are speaking of?

A Well, you know--if you had three blacks on the Council--if you had four blacks on the Council, and if they are not the blacks who are representatives of the community, it still wouldn't make any difference. I'm not saying that just the fact you get a person of color on there would mean that blacks would be to greater

advantage, but I do say that the likelihood or the chances are much better than they are without any blacks on there at all.

Q Okay. But then, still each ward would have to elect the kind of black that they felt would be representative of the community. Is that right?

A I think they could do that because if each one would really know that he is going to be accountable to that community, then he would have to campaign--

Q Okay. Going back to the realities of Waco where you have approximately 15% or perhaps a little bit less in the city itself--

MR RICHARDS: The city itself, I think, is over 20%. The county is 17%.

Q Okay. But taking that percentage, the reality that you mentioned before, probably for sure one and probably two black, or perhaps one black and one Mexican American could be elected to the City Council under the percentages we were talking about--

A Uh huh.

Q --that you are still going to need to get--to get the kind of things that you are talking about, that even given that those people representing the kind of blacks

you are talking about involving the school desegregation, employment, and this kind of thing; would that be a fair statement?

A It is a start.

Q Would that be a fair statement, that given those two, you are going to have to do more than just elect them?

A I don't think--

Q It isn't going to solve the problem.

A I don't think that just electing two people is going to make such a dramatic change, but I do think in the long run that this is going to evolve into some--

Q But that would be a fair statement to make, in general?

A It wouldn't change it that year, if that's what you are talking about. I mean, to get two blacks elected doesn't mean it is going to change the community attitude that year.

Q But what I'm saying is the community attitude must be changed. That's what you are working for.

A We are working to get the community attitude changed, right, but I think part of that change would come through seeing, say two black councilmen.

Q How did the blacks that are presently on the City Council decide to run? Do you have any personal knowledge of that?

A I really don't know. I don't personally know.

Q Did any of them contact you or any people that you know?

A I would imagine that DuCongue sought out some people in the black community. I'm more familiar with the Dorsey campaign because I worked as a Captain in one of the precincts. I worked more directly with that you know. He just came to a number of us--well, a number of us sought him out. I will put it that way, and got him to run, but in the other instances, DuCongue, I'm not sure how this came about because--let's see, that was--I might have been ill at the time when this first started.

Q But you did seek out--there were members of the black community that did seek out Mr. Dorsey. Is that correct?

A Yes.

Q You mentioned three groups here in Waco that generally could be identified as black organizations, the Northeast Neighborhood Council, the N.A.A.C.P., and the Black Federation. Is that correct?

A Yes.

Q Do any of these groups ever, during the times of political campaigns, regardless of what level, ever make any endorsements of candidates or slates of candidates?

A I think they make endorsements. I'm sure the Northeast Neighborhood Council--I participate in that. The Black Federation is not old enough, I don't think, at this

point to get into this political endorsement. The N.A.A.C.P., I think, is a source of conflict in that the N.A.A.C.P. or the Northeast Neighborhood Council have divided on which candidates to endorse, and this sort of thing, so there is a problem there.

Q Okay. Do you recall who either the N.A.A.C.P. or the Northeast Neighborhood Council endorsed for the legislative--Democratic Legislative Primary?

A Yes. I think I could probably--the Democratic Legislative?

Q Yes.

A Northeast endorsed Ron Lillard and Lane Denton --was it Lane Denton?

Q Yes.

A Who else was in there?

Q Well, those are the only two legislators.

A Yes. Those were the two.

Q And the N.A.A.C.P.?

A The N.A.A.C.P. endorsed Lyndon Olson and Lane Denton, I think.

Q Even with this ad, those two groups were in some disagreement as to who would best serve the interests of the black community, of the candidates offered?

A Yes. I think there was a difference of opinion.

Q Do you have personal knowledge, or do you know, of any

of those people, Lane Denton, Lyndon Olson, or Mr. Lillard--

A Yes. Ron Lillard.

Q --sought the endorsement of these?

A All of them did.

Q All of them sought the endorsement?

A Yes.

Q Okay. You mentioned that the black weekly paper, which I understood is somewhat of a co munication media within the black community, does not accurately reflect the--those issues that are--fielding those issues?

A I hate to leave the impression it is even a newspaper because it doesn't reflect any loca issue. It is the kind of thing that runs the obituaries, what's going on in the churches, this type of thing. It is never editorially- it speaks of what is happening in Hong Kong or something, you know. It never has spoken to a local issue.

Q But in your opinion, it is not representing the black community.

A No, it doesn't represent the black community at all.

Q Okay. I would like to turn just a minute to the School Board issue. You mentioned that you were on or had been employed in the schoo system here in Waco.

A Yes.

Q Do you know approximately--are there other black teachers or members in this school system, either in high school or lower levels?

A Are there black teachers in the system?

Q Yes.

A Oh, yes, there are black teachers in the system. As far as the administrators, there is only one that I know of, and this was done since the integration and cross over and all this stuff.

Q Would you have any idea of the percentage of black faculty in the school system?

A It seems like to me it is 80-20.

Q Twenty percent black?

A Yes.

Q Okay.

A I think--

MR. RICHARDS: I'm not sure about the percentage of the faculty. I mean, that is what it is supposed to be. That is what it is supposed to reflect.

MISS LEVATINO: Supposed to be. I am checking for all--if he knows.

MR. RICHARDS: I think we are going to put the record in any way.

Q As I understand it, we have been talking about-- Mr. Richards mentioned earlier the 1956 vote to maintain desegregation.

MR. RICHARDS: Maintain segregation.

Q Maintain segregation. I'm sorry. Do you recall, was it phrased in that term or in terms of busing, or was it pro and anti busing?

MR. RICHARDS: Segregation wasn't--oh, yes, '56. I'm sorry.

Q Okay. Would you say--

MR. RICHARDS: Hadn't heard of busing in '56. Busing was still good in 1956.

Q I wanted to be sure that was what it was about. Would you say that the issue in Waco now is whether or not the schools should be desegregated, or is the issue by virtue of busing?

A I think the two of those circumstances are inseparable because of the neighborhood patterns and so forth. You can't conceivably have an integrated system without busing, but the question and hang-up is whether you bus one way or whether you bus two ways.

Q So the issue that seems to be very visible right now is should we bus or how should we bus. It is kind of a busing thing. It is framed in those terms?

A Well, busing takes a higher, you know, I think --but if it were not to bus, I was just trying to think. Even if it were not to bus, I'm not sure whether or not this community would be receptive to desegregation.

Q But my question is, what you hear now is the busing discussion. Is that where the antagonism seems to be between the blacks and the whites?

A I don't think so because you've got 3700 blacks being bused and only about 600 whites on a full time basis and there aren't that many whites that are being bused, you know. There is only one grade and that is the sixth grade, so you've got very few whites that are being bused. So, you've got 11 grades of blacks being bused and one grade of whites being bused, and if there is any hollering about being bused, it is the sixth grade parents. I can't see why the others would be that--you know, complaining that much. So I don't think it

matters that much. It is just blacks and whites getting together in school.

Q Okay. You still think they just don't want each other?

A Right, because a tremendous brunt of the busing is on the blacks.

Q Okay. Are you familiar with the recent statement made by the N.A.A.C.P. here, stating that they prefer to return to the neighborhood concept and not the busing?

A I'm familiar with it, yes. I heard that.

Q I believe it was pretty recent; about a week ago.

A Yes, it has been a week or two.

Q They too are--if that statement is true and they would prefer to remain in the neighborhood school situation, would that not mean there would be a certain amount of desegregated schools--I mean, pardon me, a certain amount of segregated schools?

A I think you have to determine first who is talking when you hear the N.A.A.C.P. You're not talking about somebody that is representing the whole community. You are talking about somebody that might be representing 20 or 30 people, you know. It is not, you know--it is one man that is being manipulated by a power structure and this kind of thing, and that does not at all--you can't look at the N.A.A.C.P. and say that is the way the black people feel, and this is what happened to the

school issue. The N.A.A.C.P. and the Black Federation were split on whether or not we were going to boycott, and the N.A.A.C.P. petitioned that they would not and this was part of the power structure used in the N.A.A.C.P. as a tool to still dilute the potency of the black community.

Q Well--

A I don't want, you know--when you say the N.A.A.C.P. comes out and says they want to return to the neighborhood concept, I'm not sure that is reflecting what the black community wants.

Q From what you are stating here, then, between the Neighborhood Council and the N.A.A.C.P. and the Black Federation, would it be a fair statement to say that there is a certain amount of disagreement between the--within the black community itself as to how to handle some of these issues that we are talking about?

A I would say that there is, yes.

Q Okay. Just--one more thing I would like to go into. Both Mr. George and Mr. Richards mentioned a little earlier some of the specific issues that affect, or were brought up in the Legislature. Are you aware of any particular issue in the Legislature in which any one of your representatives voted or responded in a way that would not represent the interest of the black community,

whatever those might be?

A I would hate--I would hesitate to answer that because I'm not really up on that the way I should be, and I don't know of any issue that directly affected us--I don't know the record at this point. I haven't checked the records to see.

Q Okay. Since 1960, have you ever contacted any of the Legislative delegations from this county with regard to any of your stands on particular issues or recommended or asked any member of the Legislature to act in some affirmative way?

A At that time it was fairly--a fairly futile kind of effort because it is just a feeling I was trying to describe while ago, that you just didn't have that kind of contact with the Legislator even to think that you could identify with something mutually with him, and up through this pastelection, I don't know of a Legislator that I was close enough to, or that I knew enough about, that I wanted to--it is something like, you know, voting for lesser of evils, or two evils or something, you know; something of that nature. That is the way my voting has been for a number of years.

Q But you generally never have contacted the Legislator either to disagree with something he has done or to recommend that he do something?

A No. I can't say I have had that kind of contact.

Q Okay. One more thing. You mentioned that you didn't think but about one out of three people in the black community even knew the political process of how you would become a candidate or even a part of the procedure that goes into electing a candidate,

A No, I didn't say one out of three. I said there might be three in the whole community.

Q Maybe three in the whole community. Okay. Has any of these groups, the Neighborhood Council or the N.A.A.C.P. or the Black Federation undertaken any kind of educational program or programs to acquaint the remaining--outside of the three that knew--the remaining people with the issues or with the processes?

A With the little that we have to work with, I think in the last four years or so, maybe, there has been an effort to try to educate the community more to what is going on, but still this is nothing on a wide scale. I think that if something could be found to show the entire black community, rather than just East Waco, that, you know, they do have some power, you know, and they can put this power together. If they can ever have a victory of some sort to show that they've got the power, then I think that we will be able to get somewhere, but at this point, it is all kind of a

frustrated, futile effort.

Q Did you notice an increase in voter turn-out in City Council or Legislative races in the past four years in the black community since you have been attempting to get some of the people?

A I have noticed an increase in the black precincts when there were black people running in the state and City Council races.

Q Okay. Have you any knowledge of the--if there was any increase in black voter--black precincts, in districts which could be termed black in Dallas, Houston or Bexar County in Legislative races?

A Have I noticed an increase in participation?

Q Uh huh.

MR. RICHARDS: You mean in those three counties?

MISS LEVATINO: Uh huh.

MR. RICHARDS: I'm not sure--

MISS LEVATINO: I'm just asking if he has any knowledge.

A Well, no, I'm not aware of--do you know--I'm just not aware of that.

MISS LEVATINO: I think that's all I have.

MR. RICHARDS: I have nothing further.

MR. GEORGE: Just one question and that is due to the school problem.

RE-CROSS EXAMINATION

BY MR. GEORGE:

Q In connection with the busing versus the racial--busing as an issue in itself versus the racial undertones in integration, didn't you tell me before about whites in the neighborhood of a new high school which is predominantly black moving from that area?

A Yes. I said that was--there has been a pattern whereby blacks who were assigned to the Jefferson-Moore School, which is predominantly black, have--and I am told through reliable sources within the school, that they have--

MR. RICHARDS: You mean white, don't you?

A I beg your pardon.

MR. RICHARDS: You said whites in the school, in Jefferson-Moore.

A Right. I'm talking about the white students in Jefferson-Moore School.

Q And those students lived near there?

A Right. They lived in the area and they were--right. They were assigned to go there. Right. They lived there, and they weren't the bused ones in, but those were the ones that were supposedly in that school because they lived closer to that area. They lived within the two mile thing. They have consistently come with the doctors' excuses saying it was an impairment to their health or something.

Q Although the children--the people have not changed their home, the location of their homes, the children are not going to their neighborhood school, but to some other school?

A Right.

Q That is not black, primarily black?

A Right.

Q They are going to predominantly white schools?

A Right. Right.

MR. GEORGE: That's all I have.

CERTIFICATE

THE STATE OF TEXAS
COUNTY OF McLENNAN

I, L. E. Gaskey, Court Reporter at Waco, Texas, do hereby certify that the aforegoing pages numbered 1 through 51 inclusive, contain a true and correct transcription of the stenographic notes made by me on the 9th day of November, 1973, on the testimony of ROBERT L. GILBERT held at the McLennan County Courthouse, Waco, Texas to the best of my skill and ability.

I further certify that I am not of counsel nor am I related to the parties in the action, nor am I an anywise interested in the result of said cause.

WITNESS MY HAND this 16th day of November, 1973.

_____
L. E. Gaskey,
Official Court Reporter

* * *

STATE OF TEXAS

COUNTY OF McLENNAN

I, ROBERT L. GILBERT, hereby swear that I have read this deposition that I have given on the 9th day of November, 1973, and that it is, to the best of my knowledge, true and correct.

_____

ROBERT L. GILBERT

Subscribed and sworn to before me, the undersigned Notary Public in and for McLennan County, Texas, this the _____ day of November, 1973.

_____

Notary Public

GILBERT DEPOSITION

EXHIBIT 1

INFORMATION ABOUT THE LEAGUE OF WOMEN VOTERS CITY COUNCIL STRUCTURE STUDY

The League of Women Voters of Waco is concerned about making the democratic process work in Waco. In the 1970 city council election, the candidates preferred by the East and Southwest wards lost in the city-wide election. Concerned citizens wrote letters to the editor of the local newspaper questioning whether the present at-large system allowed for adequate representation for the citizens of Waco-particularly the East and Southwest ward residents. The NAACP publicly took a stand against at-large elections. Last March the League of Women Voters adopted as a local program study item, the study of the structure of the city council in order to come to a decision as to how the League would stand on this issue. The City Council Structure Committee has had one report meeting to the total membership of the League at which the accumulated information was presented. This information included a history of Texas cities, types of municipal government, a history of the forms of Waco city government since 1914, methods of initiating charter amendments, the charter commission, facts about charter amendment elections which changed Waco's form of government, city council election results, report from the book Institution Racism in America, by Louis L. Knowles and Kenneth Prewitt, and court cases concerning multi-

member districts. Since that meeting, we have been interviewing Wacoans of various interest groups to find out their opinions of the present method of electing councilmen. The Public Opinion Panel, which we will present to the League membership on March 7, is an attempt to reflect the opinions we have been collecting through private interviews. The following report is a summary of the information we have collected.

CITY COUNCIL STRUCTURE REPORT

City Governments--In 1912 the home rule amendment to the Texas Constitution was adopted. It authorized cities having more than 5,000 inhabitants to adopt by popular vote new charters or to amend existing ch·ters which might contain any provisions not inconsistent with the Constitution or general laws enacted by the Legislature. Cities having 5,000 inhabitants or less would be incorporated under the general laws of the state or by special law. The following forms of government are adaptable to general law, special charter, or home rule cities: Mayor-Council (or aldermanic)--with a mayor elected at-large and aldermen elected from wards; Commission--with a mayor and commissioners elected at-large, the commissioners being the heads of administrative departments in the city; Council-Manager--the council being elective with legislative powers and the manager being appointive by the council with executive duties and powers. Mayor elected by voters or council. In Texas most home rule cities have the council-manager form of government.

History of Forms of Waco City Government

1914 Commission--at-large election of four commissioners and mayor, mayor and commissioners paid.

1923 Council-Manager--at-large election of 5 councilmen, mayor elected from council, pay repealed, city-manager appointed and paid, other city officials appointed.

1946 Mayor-Council--at-large election of paid mayor, six councilmen elected by wards, city-manager position abolished, other officials elected.

1948 Council-Manager--six councilmen elected by wards, no pay, mayor elected from council, city-manager appointed by council.

1950 Council-Manager--same as 1948 except for at-large election of councilmen, one residing in each ward.

1958 Council-Manager--same as 1950 except new charter adopted with plan commission added. (No change in form of government.)

Methods of Initiating Charter Amendments

1. Action of Council--City Council passes ordinance authorizing amendment election not less than 30 or more than 90 days after passage of ordinance.

2. Petition by Voters--A petition signed by 10% of the qualified voters of the city is presented to the Council asking for an amendment to put before the people at an election. The Council must pass an ordinance as above.

The Charter Commission--Created in spring of 1928 to study the charter and recommend charter changes to the city council. Terms of office are indefinite and meetings are not regularly set but when called by the council.

Interesting City Council Election Results and Amendment Elections

December 29, 1923--Charter changed from commission to council-manager, initiated by council at request of petition by less than 10% of voters. Reason--reckless management by inexperienced city officials, pay not sufficient to demand good job, too expensive (salaries), too much politics in commission form*

January 29, 1946--Change from council-manager to mayor-council, petition by less than 10% of voters, council initiated amendment, Reason--city manager criticized for salary, appointments, recommendations and qualifications, taxes too high, council-manager form not democratic.*

January 31, 1948--Change from mayor-council to council-manager with election by wards, requested by small group of citizens, initiated by council. Reasons--proposed change combines best features of tried forms, it is representative and efficient.*

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*Reasons given for changes are those expressed by proponents of the change and were taken from old Waco newspapers. Newspapers are not available for dates before 1919.

1950 City Council Election

East Ward

Ben Teague	423	First black candi-
Louis Stewart (black)	233	date runs for
C. H. Scott	16	council

September 12, 1950--Charter change from ward to at-large with residence requirement, amendment initiated by council with no reasons given.

1951 City Council Election

Southeast	Ward	Total	Lee carries
Nelson Lee	116	898	ward but
E.C. Prickette	87	861	Wolfe wins
Ralph Wolfe	77	1048	election.

1952 City Council Election

East	Ward	Total	Gibson car-
Frank Greer	57	2597	ward, Greer
E.C. Gibson(black)	381	1013	wins elec-
C.S. Scovey	106	710	tion.
Dudley Rouse	125	2285	
Joel Martin	20	509	

1958 City Council Election

East	Ward	Total	Gibson carries
E.C. Gibson(black)	702	1752	ward, Bates
J.L. Bates	175	3608	wins election.

1962 City Council Election

Southwest	Ward	Total	Foster carried
A.M. Goldstein	365	4155	narrowly,
Laurel Dunn	65	423	Goldstein wins
Bill Foster	475	2586	election.

1964 City Council Election

Northeast	Ward	Total	Novian carried
Archie Novian	1451	6945	narrowly, Conger
Roger Conger	1417	8003	wins close election.
East			
Tucker Watson	61	776	Joe carries ward
Leslie Tooker	193	5094	by large vote,
Ernest Pardo	74	5502	Pardo wins elec-
Arthur Fred Joe (black)	1627	2946	tion.
Southeast			
A.M. Goldstein	474	6502	Sloan carried
Rollin Khoury	284	1932	ward easily, nar-
John Sloan	1135	6465	rowly loses election to Goldstein.

1965 City Council Election

North Central	Ward	Total	Fitzhugh carries ward, Wood wins election.
Bob Wood	734	3639	
Champe Fitzhugh	927	3246	

1966 City Council Election

Southwest	Ward	Total	Louden wins election, Foster carries ward.
H.M. Louden	382	5261	
Bill Foster	507	3052	

1970 City Council Election

Southwest			
Harold Mathias	588	5077	Capetillo carried ward, Mathias wins election.
Bill Foster	163	1168	
Domingo Capetillo	761	3725	
East			
Tucker Watson	55	1279	Dorsey carried ward, Radford wins election.
Thurman Dorsey(blk)	1571	4211	
G.H. Radford (black)	528	4710	

Arguments for and against our present method of election of councilmen--from newspaper clippings and interviews:

Pros 1. The Supreme Court decision of the "one man--one vote" rule held true in this case.

2. Wards are not competing, instead the City Council is a joint "for the good of the City" type of government. No petty grievance fights. Councilmen represent the City, not an area.

3. Residence requirements insure that councilmen are from all parts of the city.

4. Most of the Texas Home Rule cities use the at-large system: Of the 180 Home Rule cities 144 elect councilmen at-large with no residence requirements; 23 elect councilmen at-large with residence requirements; 9 elect their mayors and some councilmen at large and others by wards; 4 elect councilment by wards.

5. Minority groups have been gaining wider representation in the Waco government through appointments to commissions and boards.

Cons

1. At-large system does not allow fair representation of wards--block rule rather than local rule. See 1970 election results and others.

2. At-large system allows the white community to have an impact on the entire structure--to be in complete control. Waco is about 20% black and 12% Mexican-American.

3. At-large system does not allow for the spirit of dissent which is an important part of the democratic process. It does not encourage dialogue and talking about different views.

4. A candidate from a ward must campaign throughout the city which is more expensive and limits candidates to those known city-wide.

5. Councilmen elected at-large do not know their ward well enough to make intelligent appointments to boards such as the Model City Citizen Boards.

6. Boards and commissions are appointed--not elected, hence not representative. Also there are not enough minority members on boards and commissions in Waco.

7. Minority group members expressed they valued the city of Waco as a whole and used all parts of the city, hence they thought they could see the city as a whole and not just their wards. In contrast, north and west Wacoans are generally not very familiar with East Waco and South Waco.

Analysis of Racial Composition of the Appointed Boards and Commissions

There are 31 Boards and Commissions. Of these, 30 are composed of a majority of white members. The only exception is the Urban Community Development Advisory Commission, which is set up by wards and requires representation from each ward. It has 5 blacks, 6 Mexican-Americans, and 4 white members.

On these 31 boards and commissions, there are 238 members, 205 of these are white (86%), 21 are black (8 1/2%), and 13 are Mexican-American (5 1/2%), 16 boards or commissions are all white.

Quotes from INSTITUTIONAL RACISM IN AMERICA by Louis Kenneth Prewitt, 1969

"Institutional racism has created conditions against which black citizens are rebelling." (p. 78) The honored custom of our American heritage has been the privilege of voice in the political arena. This is where, according to our basic democratic principals, rebellion and voices of complaints are to be

heard and acted upon...Not so for the Black Citizens. Rather than being a tool for the Blacks to be heard in their struggle against racism in America, the so-called democracy has been manipulated by White America to protect racial privilege. (paraphrase p. 78) "The fundamental power of the vote for Black people has either been flatly denied or emasculate through political maneuvers. Local government is gravitating toward at-large rule by the White majority with virtually no Black representation." (p. 81)

Quote from "Electoral Reform Needed to End Political Alienation", by Joseph F. Zimmerman in the NATIONAL CIVIC REVIEW, January, 1971.

"Local government has been highly praised in the past as grass roots government which is close to the citizenry, yet most cities of size today do not merit this praise, that many citizens are alienated from their governments is reflected in the growing demand for neighborhood government in central cities. Although the demand emanates primarily from minority groups convinced the existing system neglects their special needs and renders them politically powerless, there is evidence of alienation in many middle-class neighborhoods."

Alternatives to at-large voting suggested by this aritcle are: ward elections; limited voting; cumulative voting; and proportional representation.

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF TEXAS
AUSTIN DIVISION

CURTIS GRAVES, ET AL VS. BEN BARNES, ET AL	* * * * *	CIVIL ACTION NO. A-71-CA-142
DIANA REGESTER, ET AL VS. BOB BULLOCK, ET AL	* * * * *	CIVIL ACTION NO. A-71-CA-143
JOHNNY MARRIOTT, ET AL VS. PRESTON SMITH, ET AL	* * * * *	CIVIL ACTION NO. A-71-CA-144
VAN HENRY ARCHER VS. PRESTON SMITH, ET AL	* * * *	CIVIL ACTION NO. A-71-CA-145
FRANK A. ESCALANTE, ET AL. VS. MARK WHITE, ET AL	* * * *	CIVIL ACTION NO. A-73-CA-115

JAMES GASKIN, ET AL	*	
	*	
VS.	*	CIVIL ACTION NO.
	*	A-73-CA-146
MARK WHITE, ET AL	*	
WANDA L. CHAPMAN, ET AL	*	
	*	
VS.	*	CIVIL ACTION NO.
	*	A-73-CA-155
MARK W. WHITE, JR., ET AL	*	

DEPOSITION OF TOM P. MOORE, JR.,
given at the McLennan County Courthouse, Waco, Texas on Monday, November 26, 1973, beginning at or about 1:00 P.M.

A P P E A R A N C E S

Hon. David R. Richards, Attorney at Law, 600 West 7th St., Austin, Texas, appearing for and on behalf of the Plaintiff Intervenor.

Hon. Elizabeth B. Levatino, Attorney at Law, Supreme Court Bldg., Austin, Texas, appearing for and on behalf of the Defendants Briscoe and Warren.

REPORTED BY: L. E. Gaskey, Official Court Reporter, Notary Public

AGREEMENT

It is agreed by and between the parties hereto, through their attorneys appearing herein, that the Plaintiff Intervenor may take the deposition of the witness,

TOM P. MOORE, JR.,

at this time without service of notice of time of taking said deposition and without the issuance of a commission thereon, said deposition being taken with the same force and effect as though all requirements of the rules and statutes had been fully complied with.

It is further agreed that said deposition, or any part thereof, may be offered in evidence by either party, subject to any and all objections to any question or answer herein, which may be made upon the offering of this deposition in evidence upon the trial of this cause, except as to the form of the question, which objection shall be made upon the taking of the deposition, with the same force and effect as though the witness were present in person and testifying from the witness stand.

It is further agreed that this deposition may be returned into Court and used on the trial of this cause without said deposition being signed by the witness.

* * *

D E P O S I T I O N

TOM P. MOORE, JR.,

after having first been duly sworn, testified as follows, to-wit:

DIRECT EXAMINATION

BY MRS. LEVATINO:

Q Would you state your name, please?

A Tom Moore, Jr.

Q Are you a resident of Waco, Texas?

A Yes.

Q How long have you been a resident here?

A Fifty-five years.

Q And you are a licensed attorney?

A Yes.

Q When were you licensed?

A 1943.

Q Have you practiced in Waco continuously since you were licensed?

A Yes.

Q Would you briefly give us your background in elective political offices, both those which you have held and which you have run for?

A I have held two. I was District Attorney here for six years, in the fifties, and I was a member of the Legislature for six years, beginning in 1968 session, I guess, in the 1967 election, I guess, or was it vice versa? Any way, about that time.

Q Did you run for other political offices?

A Yes. I ran for Attorney General in 1956, unsuccessfully, and I ran for the Texas Senate in '72.

Q Did your activities in political--in the politics of Waco, in elected politics, begin about in 19--the 1950s when you ran for District Attorney, or were you active prior to that time?

A Well, I guess I was Assistant District Attorney after I got out of the service in 1946 and really had not active participation to speak of until, I believe, the Stevenson campaign in '52. Is that the right year?

MR. RICHARDS: Coke or Adaili?

A Adaili.

Q And since that time have you been continuously active in politics in Waco?

A I would say I have since that time continuously.

Q Would it be an accurate label to put on you to say that you are a Liberal Democrat?

A Yes.

Q Has that label been given to you by the press or other elected members of the Texas Legislature or people in this community? Do you think they view you as a Liberal Democrat?

A Usually preceded by some adjective.

Q When you decided to run for the Texas Legislature and other campaigns, such as Senator, was there any specific groups in Waco or McLennan County that you contacted to get their support prior to determining whether you would run?

A Yes.

Q What would those be?

A Did you ask me--all my races?

Q Yes.

A Well, yes, sure. Of course, you always do. When I ran for District Attorney back in the fifties, I contacted every group that I knew about that could be identified as a group in order to seek support.

Q What was the nature of these groups?

A Well, I went to every bank and town. I went to all the insurance companies. I went to all of the old established people that I recognized as having some authority and influence in the community. Waco isn't that big a place and our family has been here--I was

born here and I knew them. I think maybe I might have sought out the labor support at that time, but my recollection is that the labor support at that time was more of a handicap in Waco, in the early fifties, and which I believe they did support me, I think I asked them not to put me on their slate or something, in that sort of a way. I had some familiarity with the black community and worked rather extensively with the black preachers and with one fellow that I recognized as a leader particularly. His name was Roscoe Scott. I don't suppose that you could say Waco has a Jewish vote, but I remember I got more money from the Jewish friends that I had here probably more than any other ethnic group any way. Of course, when we are talking about money in those days, you know, five dollars was pretty good, and by the time I ran for the Legislature, the line had been drawn between Liberals and Conservatives rather--well, very substantially in this county and since I had supported Adaili Stevenson and Ralph Yarborough, I depended heavily upon what is called the liberal vote, which at that time, at least, was organized labor and blacks and Mexicans, and more or less what I think of as the brass collar Democrats in the rural areas who are not liberal by any means but remain loyal to the Democratic party, or did up until that time.

Q Now, these groups that we are talking about, did any of them engage in the slating or endorsement, both in making slates or giving money as a group?

A Yes. Well, the labor people, of course, put out their cards to their members recommending their candidates and the--I guess it is the Texas Manufacturers Association or some of your business groups also put out those guides.

Q Did either the labor group or the business group that you just mentioned, to your knowledge, ever solicit people to run? In other words, did they ever contact you before you made your first race in the Legislature?

A No.

Q Do you know of them contacting anyone else?

A If they do it, I'm not aware of it. I can't think of any instance. I guess almost invariably it works the other way. Young fellows or others, really, interested in working for the Legislature get out and solicit the help rather than the other way around, I believe. It might be possible that the business type folks do solicit candidates, but I have not known of it if it has happened.

Q Would it be fair to say that in your opinion the decision of who will be the candidate for the State Legislature race is generally up to the individual after

he has talked to friends, to people in the community, to make that decision rather than identifiable groups soliciting?

A I believe that is the case.

Q You said that labor did involve, or has passed out slate cards, and so forth. Have you ever appeared on them?

A Oh, yes. Yes.

Q Although origina. y back in the fifties you weren't identified--

A I don't think they did that early in the game, but rather they would put an ad in the paper and willie-nillie throwing in the names of all the candidates that they preferred, and as I was trying to explain to them, can hurt each of the candidates and can't really help any of them, but I don't believe they put out cards that early.

Q Does labor, to your knowledge, do any slating of races other than State Legislators or statwide races?

A No.

Q They never--

MR. RICHARDS: You mean by that in the primary, or are you talking about City Council and School?

Q Yes. Races other than statewide elections. [10]
A I think they do on the city level at times.
Q To your knowledge, have they ever slated any person that would be a member--that would be black or Mexican American?
A I can't swear to it, but I feel certain that they have supported the black and the Mexican candidates.

MR. RICHARDS: You mean in the City Council races?

A In the City Council and School Board.
Q Okay. When you were campaigning for both the District Attorney's office and the House of Representatives and the Attorney General and the Senate races, did you conduct any part of your campaign in the areas of Waco that are generally considered black or Mexican American?
A Oh, yes. Sure.
Q What type of contact did you have with the people in that area? Did you seek them out, or did they ask you to come speak to them?
A I think there might have been a little of both, but because by that time I had been pretty well identified as being on the liberal and therefore the black side, you see, so I had an entree from working for the

National Democratic Ticket that was heavily supported by the blacks. Let me see now. What--in the early race, first race, the primary contact points were the preachers in the black community, and we were all--the candidates were invited to address the meetings at churches and to express views and to answer questions.

Q Was there a relatively good turnout?

A Oh, all of them, yes. Sure. But now some of us who were more intimately associated with the blacks and their political movements were invited to some meetings that weren't general, where they organized to support us.

Q Would it be fair to say that generally you had a good report and acceptance with the black people in this community?

A Oh, yes.

Q You said that they did organize their blocks or really work for you more than just vote for you. Is that correct?

A Yes. Yes. My first race for the Legislature was a special election. We had some black leadership and some of our whites who had been working with them in other races, attempted to organize all of East Waco, which is a solid black community and about four voting boxes. In the primary, and while I carried those boxes, we didn't

get as heavy a turnout as we felt we needed. There were about eighteen candidates, one of whom was a Republican. He ran first and I ran second in the primary, in the first go-round.

Q When you say first, do you mean overall or in the black box?

A Over all. Over all the county. So, in the run-off between the Republican and myself, with the help of--primarily the help of a fellow by the name of Van Pell Evans, we organized East Waco with down to block leaders, to where every door was knocked on on election day, and we turned out a much higher percentage of the vote, and my recollection is I got about 90% or better. So, yes, we did have organization over there.

Q Has this organization that you started with your particular election in introducing blacks, or at least soliciting their votes, getting them to the polls, did that organization--was it ever used again, or did it remain in East Waco or was it visible--

A Well, yes. I don't think it has ever been as successful as it was in that particular race--possibly in turning out the vote for Hubert Humphrey. Although we didn't get out near the percentage of voters in that race--but what happened, as I see it, was that by this time we had a more militant black group of younger fellows coming

along and where we used to go over and find the headquarters and put a telephone in it and line up automobiles so people could phone and get rides to the polls, we set up the charts showing who was working each block. The blacks wanted to do this themselves and I would say they have done a very poor job. They didn't turn out any vote at all for Ralph Yarborough, for instance, who had traditionally carried those boxes by 90 or 95%, in getting out large votes, and his defeat in his last race for the Senate, his response in East Waco was terrible.

Q Then the organization or the work in the voting process that had turned out a good percentage for you in your vote, in your race, didn't seem to be there the next time around?

A No. It hasn't been there since. Now, this--don't get the idea--

MR. RICHARDS: Don't get your time frame compressed too much. Remember, this is a six year stand.

A Yes, and it is trailing off and it is--I think--of course, this is a complex situation, the other factors involved. I think the blacks have just become so

discouraged. It doesn't make any difference who runs, they feel they are not going to get much out of it one way or the other, so they just quit voting.

Q Okay. Let me ask you this. They turned out well for you. Did you have much contact with them while you were in the Legislature as a Representative? Did they approach you with regard to their feelings on legislative issues, the things they wanted you to do for them, or consult with them on local issues?

A Well, I guess I heard from them about as--in proportionally as much as I heard from the white community, but I don't recall any particular pressure points or campaigns on behalf of the blacks for any particular legislation.

Q Is it your recollection where they were complaining of stands which you may have taken, or any stand they felt you should have taken?

A No, I don't recall any. No. I think the complaints I had were from the conservative side of the spectrum. I don't recall the blacks being vocal against anything I did in the Legislature.

Q Would you think the very fact they turned out for your election and presumably were not unhappy with the representation you gave them, what would lead to their frustration in not wanting to go vote in another election?

A Well, for instance, back in fifty--what--54, we had a Supreme Court decision that would end segregation and twenty years later nothing much had happened, for instance, and this sort of thing. It has been an awfully slow process or really lack of progress for the blacks, as they see it, and really, I'm inclined to agree.

Q Would you think it would be fair to say that their frustration or feeling of not doing any good is more related to their general situation in the community as opposed to what their Legislature did or didn't do, the Texas House of Representatives legislators?

A I think that is probably correct as a generalization because looking back on at least my six years in the Texas Legislature, it is difficult for me to think of any particular vote that I would classify as a pro black or anti-black vote. I can think of a lot of votes that I thought would be helpful to the blacks simply because it would be helpful to all of the more deprived people of this state, but not as blacks specifically, you see. It is hard for me to think of any such votes.

Q In the votes that you felt were generally of benefit to the more deprived citizens in this State, would that include the tax bill, the minimum wage bill; this type of economic bills?

A Yes. The consumer protection; just about any vote that is classified as "liberal" in Texas, you see.

Q Well--

MR. RICHARDS: We will stipulate that Tom has an excellent voting record.

Q Okay. Going back a little bit more to the organization of the blacks, the political organization, have they been, or have they served, as delegates to County conventions, and have they been elected to serve as such in the Democratic County Conventions?

A Yes.

Q Have they been delegates to the State Democratic Conventions?

A Yes.

Q In electing--you were Chairman of the McLennan County Democratic delegates to the State Legislature. Is that correct?

A Yes. Three or four times.

Q Generally, was the Chairmanship determined--would they have to have support of the black delegations in order to get the Chairmanship?

A Well, I would say they were the difference. We have had rather heated fights over control of the delegations here

and the liberals have won every time they wanted to, and usually when they won, like I say, in three or four conventions I know they elected me Chairman. I couldn't have made it without the black vote. No, I don't believe I could have.

Q Okay. Do you think--have there been any restrictions as to the black voting in McLennan County? Have they ever been prohibited from registering to vote or voting to your knowledge?

MR. RICHARDS: Within what period of time?

Q Any time within his knowledge.

A They have been voting here ever since I have known about voting.

Q Would you say that at least within the past 30 years?

A Yes. All I know of is hearsay from the older blacks who told me they voted when they were young men here.

Q There have been no legal attempts to stop their registering to vote or voting?

A Not to my knowledge, and I know there haven't been any in the last 20 years.

Q In your opinion, what is the general voter turn-out in those boxes or wards that have been termed black?

MR. RICHARDS: Let's limit this--you mean currently?

Q Currently. Within the past--

MR. RICHARDS: And I guess it may vary. You are talking about the Democratic primary, or general election or School Board election. If there is a difference, I wish you would develop it.

MRS. LEVATINO: Okay.

Q In your opinion, what is the general turn-out of the black vote in the Legislature of State House of Representative races in about the past six years?

A Oh, gosh, I don't know. It would be so much easier to get the record out.

Q No. I'm just asking for a high and low.

A Well, the turn-out has not been good. Thirty percent would be a high turn-out. I don't know that we have ever gotten any black box out in excess of 30%. We might have on one or two occasions, maybe, for Ralph Yarborough or for me in my first race, or for Hubert Humphrey, but generally, fifteen, eighteen, twenty percent is about it, and this is not just the blacks

either. I mean there are many white boxes that don't vote any better.

Q Do you have any knowledge as to whether or not a generally low percentage was also reflected in a race for City Council or School Board or County Commissioner?

A Well, it depends on the race. Now, we did have one contested race for City Council between two blacks, Dr. Radford and Thurman Dorsey, which brought out a very heavy vote in the black community, but generally, the overall vote in the City Council races in Waco is probably less than 20%.

Q When you were a member of the Texas Legislature, did you nominate Representative Dan Holmes for Speaker of the House?

A Yes.

Q Is he a black representative from--or at that time--from Dallas County?

A Yes, he was.

Q Did this--I believe this happened in 1973--no, 1972, I believe, special session in 1972.

A I don't think I was there in '72, was I?

MR. RICHARDS: I remember you doing it and I believe it was in special session--

[20]

MRS. LEVATINO: Let's go off the record.

(Off the record discussion)

Q After the nomination of Mr. Holmes, the next elections that followed shortly thereafter, you went for Senator. Is that correct?

A Yes.

Q Did your nomination of a black man for Speaker of the House become an issue at all in your senatorial race?

A No.

Q Did you carry Waco and the black boxes in your senatorial races?

A Yes.

Q Do you recall any issues in either of the senatorial race or your legislative races which were overtly or covertly racial in nature?

A I don't remember any. I'm sure it is used because I have had such heavy support among the blacks, but it doesn't reach the open level. I never hear it. I feel like folks talk about it at the country club, maybe.

Q In other words, you say it is used by the conservatives; he's a friend of the blacks?

A I would think so, but nobody is that blatant on that delicate subject, because it can backfire, so I don't

hear it. I don't get any feed-back on it if it is being used.

Q Do you ever get any feed-back about criticizing you for nominating a black man?

A No. Never heard it mentioned. I don't think very many people knew about it that cared.

Q When you were running for the Texas House of Representatives from this district, what cost did you incur--I don't mean numbers, but what type of campaign expenses did you incur in terms of media or volunteer; where was the bulk of your expenses?

A Well, I made some races before we had television and in those, my expenses were rather nominal. My recollection is in running for District Attorney we probably spent less than $3,000. I guess newspaper ads were the most expensive and purchasing hand cards, and I think we passed out matches in those days.

MR. RICHARDS: In those days, you were using those old black and white posters.

A Yes. Posters, and when you split up $3,000 it doesn't make much difference how you use it. You are not going to spend a whole lot on any one thing. Now, later, television ate up by far--television and radio. We

allocated the bulk of our budget to those two. I have never used direct mail to any great extent; maybe to special groups, if I could get some veterinarian to write all veterinarian, in the district or the CPAs or the doctors, or whoevers. Some of that has been done, usually by people in those groups at their own expense, but I have never spent a great deal of money on direct mail.

Q In terms of the media in this county, you have one newspaper. Is that correct?

A Well, we have a number of newspapers, but primarily, yes, we have the Waco News Tribune and Times Herald, which is afternoon and morning, and now we do have some smaller papers, the weeklies.

Q The television coverage which you have used is county-wide. Is that correct?

A That's right, and we have two stations.

Q And the radio coverage is also county-wide?

A Yes. We have quite a few of those.

Q If you were running in a district which is smaller than a county-wide district, presently in this area, do you think you could reduce any expense for radio or television or newspaper?

A No.

Q You think you would still use radio, television and

newspaper?

A Yes. You would save a little on newspapers, I guess, in your weeklies. We have papers at West, Mart, McGregor, Moody and Crawford, I believe. Sometimes they have one at Crawford, and we have one over in the Bellmead area which is--I don't know whether it is a weekly now or bi-weekly, so you would save some, you see, in two or three weeklies.

Q You think if your district--if we were talking about a district half the size of the present district, that you could ignore using the media entirely?

A Well, the fact that it were split in two wouldn't make any difference. You could ignore it now or you could use. Most candidates use it as much as they can raise the money for, but whether it was two districts or one, you would have the same coverage any way, so it wouldn't make any difference. You wouldn't save any money if it were cut in two.

Q What I'm saying is, if you had a single member district or a district that was half the size of this district, would you as a candidate not use the newspapers, television and radio?

A No, I wouldn't. That would not affect my campaign at all.

Q You feel you would still have to use that media to get elected?

A Yes.

Q Okay.

A I see. I don't think cutting this county in half would make it possible to make a door to door campaign, really. I don't think it would make that much of an appreciable difference.

Q Okay. Has a black person ever run for the Texas House of Representatives in the Democratic primary to your knowledge?

A No.

Q Do you think a black person could be elected in the present multi-member district in the Democratic primary?

A No, not in McLennan County.

Q Do you think that if this district were divided into two districts that a black person could be nominated in the Democratic primary and could be elected?

A No.

Q Why do you think that way?

A Well, I just don't think that our people have reached that degree of sophistication in this county. I do not think that blacks, no matter how well qualified he is, could be elected to the Legislature in this county since they only make up, maybe, what--20%?

MR. RICHARDS: Eighteen to 20%.

A Eighteen or 20% of the people. So, I can't conceive of any way you can cut the county up enough to give them a majority unless we had more than two members.

Q Unless you had more than two districts?

A More than two districts.

Q What, in your opinion, would be the effect on the representation and response to the needs of the black community and the Mexican American community if the present multi-member district were divided into two single member districts?

A I don't think it would help the minority groups at all and I am really terribly afraid that it might hurt them. Right now, and for the past--I want to say ten years-- the blacks, by voting solidly as they do, and as your voting records will show you, have pretty good influence on the candidates. They are sort of a swing vote, particularly in a close race, and most of our races are fairly close here. Now, if you divided this county half and half and try to get all of your blacks into one side, which could be done, practically all of them--at the same time you are going to put all of your conservative people into the other district. What I am afraid this might tend to do is to polarize the situation whereas now, candidates--two candidates selected at large are receptive to the ideas of the blacks and are

politically wise to do so. If you divide blacks into one side, say, and whites into the other, to simplify it, you are going to have a candidate on the conservative side who will have to become more and more conservative. I won't say that he will become racist, but there is a possibility. On the other hand, that half that has the blacks in it is not going to have enough blacks to elect a black. What could very well happen there, and what I'm afraid of is, right now--and to get into specifics, Representative Lane Denton would wind up in the district with the blacks and he is a liberal. I can visualize an attractive black running against Lane and pulling off the black vote in which event there is practically no more liberals left in that half of the county. The whites in that part of the county tend to be very conservative, the Wallace type of voter. Now, what would happen, I'm afraid, is that if an attractive black ran, pulled away the black votes from Representative Denton, whom I class as a liberal to a moderate candidate, he might very well run third, putting a black and a Wallacite type person into a run-off. In that event, in my judgment, a Wallacite would win. This wouldn't help the blacks at all. It would hurt them.

Q Okay. So would it be fair to say that in your opinion that actually the present multi-member scheme gives the

blacks not only an opportunity to participate in the process, you said they are in the Democratic County Conventions and do have a certain amount of organization, but also require those people who are elected to be responsive to the blacks?

A I think so.

Q Turning now for a minute to the Mexican American in this community, is there any way that given the percentage of Mexican Americans in McLennan County, which I believe is approximately 7%, that they by any drawing of the districts could ever elect a Mexican-American to represent them?

A Well, not on those terms. We have had Mexican-American candidates who have polled an appreciable number of votes in the city elections. I don't think that your average white voter has as much distaste for voting for a Mexican-American as he would voting for a black man in this county.

Q Would he--

A But I don't think the Mexican-American, the Chicano vote as such, would ever be sufficient here, or at least in the forseeable future, to elect a Mexican as such, as a group. As you say, they make up maybe eight or nine percent of the county. I don't know. Probably less than that. They have a very poor record of turning out,

or qualifying their people to vote out of that low percentage, and recently, those who politically active profess to be supporting the LaRaza Unida Party and are not going to vote in the Democratic or Republican primaries any way, so I think the answer to your question is no.

Q Do you think that generally the same situation that we described earlier is applicable to what would happen to the black interests--would it also apply to the Mexican-American?

A Well, perhaps to a lesser extent. I don't think any of our members of the Legislature have had any real problem voting for such things as bilingual educational bills and whatever the Mexicans are interested in as Mexicans any way, really.

Q But you think the effect on the single member--the effect of the single member district on the Mexican American would be approximately the same?

A No, I don't think there would be enough of them to where it would be any effect really, one way or the other.

Q For as long as you were in--during the six years that you were in the State Legislature, I believe in at least one of those sessions there was a redistricting--during one time when we had a redistricting, did you ever see the State Legislature attempt to, or express a desire,

to depart from the multi-member district concept?

A Not until the Court ordered it, if that's what you are talking about.

Q Yes.

A No, I don't remember the Texas Legislature doing anything about single member districts until they--the Supreme Court said they had to.

Q In your opinion, was the general tendency of the state policy on having multi-member districts, as the area got large enough for an additional member, be what you might say a relatively long-standing state policy, that they would add another member rather than try to make another district?

A I think that is right.

Q Have you ever discussed with any black person in this community the possibility of their running for the Legislature in the Democratic primary?

A No. I don't think any of them have ever run for city or county positions, however, that they didn't come around and talk to me. We have had a couple that ran for County Commissioner. One of them was Van Pell Evans, who was a political buddy of mine for years, and the other was Willie Calvert, who has been right in there plugging with out--when I say our group, you know what I am talking about, the liberals from McLennan County.

Q Would you see the problems of blacks in McLennan County especially, and perhaps statewide, to be often split down a liberal-conservative line as opposed to a black-white line?

A That's the way I see it.

Q And so, would it be fair to characterize your opinion as a type of representation which a minority would get--would depend on the candidate's political philosophy more so than the color of his skin?

A Oh, sure. Most certainly. That has got to be true.

Q In your opinion, would a black have to--if he were to run for the State Legislature, would he have to disassociate himself with the black community in order to get elected?

A I just don't think he would be elected associated or disassociated any more than he could be elected as President of the United States. I don't think this country has reached that point, nor has McLennan County.

Q One last question. Have you ever experienced--in your experience in working with the Democratic Party here in McLennan County, have blacks been excluded from working within that party? Have they been moved to keep them from being precinct chairmen or county delegates, or delegates to the State Democratic Convention, or have they been excluded from the general decision policies of

the Democratic Party in this county?

A No. You will get complaints, of course, from blacks who go to a precinct convention and find they are heavily outnumbered, but the same damned thing happens to the liberals or the conservatives. They go to their precinct convention and are heavily outnumbered. They just get beat, but over the counter, if they've got enough votes, they win and they go. I don't know of any exclusion.

MRS. LEVATINO: That's all I have for now.

CROSS EXAMINATION

BY MR. RICHARDS:

Q Tom, I have a few, but not too many. I have found an old Waco Times-Herald, a July, 1958, that speaks of Dan Pell Evans as being--it is the circled portion. I just wanted to see if you recall to mind that he was elected as a Democratic Precinct Chairman or Committeeman in 1958; if you will accept from me--

A Okay.

Q And he was the first Negro, I gather from that story at least, in the McLennan County District to be elected to the--serve on the McLennan County Executive Committee.

Does that comport with your recollection?

A Yes.

Q He ran for County Commissioner later than that, was it, Tom.

A I believe it was--let's see, '58--I don't know. I don't know. It was about that time.

Q Okay.

A The big deal for Van Pell was when he got to be Election Judge. That goes along with being on the Executive Committee in this county, or did.

Q And still does?

A Yes. They do both.

Q They--

A The blacks really wanted to run their own election over there, and now they head up every box where they have a majority of people. That was brand new. That's right.

Q The first break-through was in '58. In fact, I see that Evans campaigned--at least, the doctor says if he is elected, he will have the right to hire the people who work at the polls.

A That's right. That's right.

MRS. LEVATINO: Do you want to mark it?

MR. RICHARDS: Plaintiff's 1.

(Whereupon the above described document was marked for identification as Plaintiff's No. 1)

Q I think you said there have been at least two times a black candidate filed in the Democratic Primary here; one was Evans' race for County Commissioner, and one was--

A Willie Halbert.

Q Willie Halbert. Did he run once or twice?

A Well, I'm not sure.

Q Whatever the case is--

A I know he ran once. He might have run twice.

Q Whatever the case, neither one was successful?

A No.

Q Tom, let me take you back a little bit on your history, and if I'm wrong, I'll have to check it. Am I not correct that when the Texas Legislature in 1971 redistricted the State of Texas--I'm not talking about the first bill that came through, the one that was later declared unconstitutional by a State District Court, you remember in Craddock vs Smith.

A Yes.

Q Isn't it a fact that they had taken McLennan County and allocated one legislative seat to McLennan County and then carved the county--placed the balance of the county's population in two, I believe, two separate

districts? Do you remember back with me--

A Yes. Sure, I remember. They drew a circle around the City of Waco, or part of it, and made that one district.

Q With one legislator?

A With one legislator, and then they gave the--they connected part of the county to Coryell County and part of Bell. You see, they cut Bell up into three parts also, and then put the rest of McLennan County with the other part of Bell County and with Falls and Milam Counties.

Q So at least--the legislative plan that was adopted by the Texas Legislature would have carved McLennan County into three separate districts, each of which would elect one legislator?

A Right.

Q The multi-member district, which is now here, was a creature of the Legislative Redistricting Board that was convened after the original--

A After, yes. However, they--you know, they weren't trying to be good to us and give us a single member district.

Q No. No.

A They tried to eliminate four members of the Dirty Thirty.

Q You're right. That was--I'm well aware of the background of it.

A It did do that.

Q Okay. I assume that that legislative redistricting plan was opposed by you and Lane Denton at the time.

A Right.

Q I don't want to go over ground that we have talked about before the deposition, but I believe you told me that you had looked at the deposition taken of Robert Gilbert here.

A Yes. I read the first part of it.

Q And we talked a little about the history in terms of blacks in the county, or at least the City of Waco, with respect to the City Council.

A Yes.

Q I believe you did tell me that your recollection comported with his that the City of Waco went back to at large elections some time in '58 or '60 when the first black ran for City Council and looked as if he might be elected. Is that the way you remember it?

A That's right, and I agree with everything he had to say about the City of Waco city elections. There is no question about it. I think that with blacks making up approximately 20% of the population, and when you have six members, I think, on the City Council, they are entitled to one, and the single member districts will bring this about, and could. Domingo Capitillo ran as a Mexican--he didn't run as a Mexican. He was a Mexican

who ran and carried, I think, his voting--I mean his ward had about eight voting boxes in it and he carried seven of them, roughly that percentage, and lost heavily and one upper-middle-class, rich, white Anglo Protestant district--and lost the race. I just think that was bad, but I don't think this applies to single--to the legislative districts for this county.

Q But you're not--I wanted to clear it up. The same thing happened in Capitillo's race as happened in the Dorsey race; that is, Capitillo won in the ward in which he was running--

A They had had eight voting boxes, and always one of them was outside of the, you know, the Mexican working class and that type of folks. He carried all of them but one box, and was beaten so badly in that box he lost the race, and Dorsey, Thurman Dorsey, ran against Dr. Radford, both of them blacks, for the City Council. Thurman Dorsey carried the boxes heavily, as I recall, but was defeated city-wide.

Q By the white vote?

A By the white vote, which I think was bad. If I thought cutting this county into two legislative districts would help that situation, I would be for it, but I don't think it would. As I said, I think it would hurt, plus the fact, Dave, let me get this on the record--if you

polarize your vote in this county, here we've got two fairly moderate fellows down there taking care of McLennan County and voting together and in conjunction with the wishes of the people up here; if you split the thing and make it a conservative district and a liberal black-type district, you in all likelihood are going to have two fellows down there voting opposite each other on all crucial votes, and this isn't going to help our county. It is going to hurt it.

Q I understand that argument, and that is the one that most counties feel. So we can get the dates put into focus, I think you and I talked about trying to reconstruct your legislative election, and I think it would be correct, the first session you served would be the one that began in 1967.

A Yes.

Q And then elected and nominated in the Democratic Primary in '68 and served the '69 session and again nominated in '70 and served the '71 session in the Legislature. The first race which you made in '67 was a special election. Is that right?

A That's right.

Q Created by the resignation of the encumbent legislator?

A George Cowden was elected and resigned before he took office.

You indicated that your opponent in that special election, or at least the run-off, was an avowed Republican, but is it generally true they field a candidate here in the general election, local races?

Yes. They have recently for about five or six years.

Any success?

No.

I take it, if it is fair to characterize the way a person decides to run for office in this county, at least as far as the Legislature is concerned, and conducts his campaign thereafter, has been pretty much an individual operation, his making his own decision to run and doing the best he can to solicit votes wherever he can find them.

Yes. I think that's right.

If I'm correct, Tom, I don't want to misstate what you told us, but as far as what you told us, the high point in terms of black turn-out is probably the organizational effort that was put forth in your first legislative race.

Yes. I think that is true.

Since then, you have observed a decline most noticeably, I think you indicated, in Ralph Yarborough's last race for the Senate?

Yes. They kept telling us they were well-organized; they

had their block captains and everything, but we went over there on election day and nobody was working the streets, and we hastily got together a bunch of white folks, and that doesn't work too well, to work door to door. They just weren't there.

Q We went over--I showed you some old legislative copies from the House Journal of '57.

MRS. LEVATINO: Are you going to offer this one?

MR. RICHARDS: Yes.

MRS. LEVATINO: We object to that on hearsay.

MR. RICHARDS: You do not believe that Van Pell Evans was elected as Precinct Chairman in 1958?

MRS. LEVATINO: No. That is not the part I don't believe. It is some of the other stuff that is in this.

MR. RICHARDS: Well, what specifically, so that I may be able to cure it.

MRS. LEVATINO: Are you offering--

MR. RICHARDS: I am offering that portion that is encircled that described the fact that Van Pell Evans was the first Negro to serve on the McLennan County Democratic Executive Committee.

MRS. LEVATINO: Just that part?

MR. RICHARDS: The vote ran pretty close to that relationship on all races in box 10 where the Negro vote was heavy. That's what I'm offering it for and Tom's recollection is that that is consistent with his recollection.

MRS. LEVATINO: All right. This is all you are--

MR. RICHARDS: Just the parts circled in blue right there.

MRS. LEVATINO: All right. Go right ahead.

MR. RICHARDS: Did you mark these for me?

(Whereupon the hereinafter described documents were marked for identification as Plaintiff's Exhibit 2, 3, 4, and 5)

Q Tom, I am handing you here something that we have looked at before, which are pages from the House Journal of April, 1967, and each of them--well, I can't--three of them are April 17, '57, and the other one is maybe the 18th. All of them record certain house votes, and I am going to direct your attention to three legislators and just see if you can confirm that they were McLennan County legislators at the time. First, is Watson--Murray Watson.

A Murray Watson. That's right.

Q He later became the State Senator from the district?

A Yes.

Q Joseph, Tom Joseph, was a McLennan County legislator. Is that correct?

A That is correct.

Q Then McGregor of McLennan County?

A Yes. That's Frank McGregor.

Q Yes.

MR. RICHARDS: I will just offer them and, Tom, you can--

MRS. LEVATINO: No objection.

MR. RICHARDS: That's all we have.

MRS. LEVATINO: I have just a couple of questions--

MR. RICHARDS: Just a second. I want to check my notes.

MRS. LEVATINO: Oh, I'm sorry.

MR. RICHARDS: That's all.

RE-DIRECT EXAMINATION

BY MRS. LEVATINO:

Q I would just like to clarify what we were talking about when we were talking about the redistricting bill passed by the 62nd Legislature in 1971, prior to that bill, was McLennan County a multi-member district?

A Yes.

Q Is it true, or fair to say, that the reason for splitting up McLennan County into three separate counties was to defeat certain encumbents as opposed to considerations of representation to minority persons or that type of--

MR. RICHARDS: Well, I'm going to object to--we

are going to object to the purpose. It was a manifestation of legislative policy in our view, for whatever, good or evil.

A Well, I will answer the question.

MR. RICHARDS: Sure. Sure.

A In answer to your question, I would say that Delbert Jones, who was Chairman of the Redistricting Committee--

Q Excuse me. Do you mean Delwin Jones?

A Delwin Jones.

MR. RICHARDS: Delbert--

A Yes. Made speeches in this district to the effect that he had done just what he said, that he had done his dead level best--these are his words--to so divide the district that no liberal would ever be elected up here and he made that statement to the Gatesville Chamber of Commerce--I mean the Killeen Chamber of Commerce, not knowing there was a reporter there.

Q In your opinion, the phrases that you used, no liberal will ever be elected from here again, did you think that was specifically aimed at the people that were--

especially were aimed at you and Lane Denton at that time?

A Yes. We knew it was because it happened that in these pie-shaped districts that they made were members such as Lane Denton, myself, John Bigham from Temple, and Dan Kodiak, Cameron; all of whom had encouraged the displeasure of the Speaker, Gus Mutcher.

Q But prior to that time you had had a multi-member district?

A Always, as long as I can remember.

MR. RICHARDS: Just to protect Tom here, a combination of multi-member and floater.

A And floater, yes. From time to time we have had a floatorial representative.

MRS. LEVATINO: That's all.

MR. RICHARDS: That's all I have.

* * *

FURTHER THE DEPONENT SAITH NOT

CERTIFICATE

THE STATE OF TEXAS
COUNTY OF McLENNAN

I, L. E. Gaskey, Court Reporter at Waco, Texas, do hereby certify that the aforegoing pages numbered 1 through 44 inclusive, contain a true and correct transcription of the stenographic notes made by me on the 26th day of November, 1973, on the testimony of TOM P. MOORE, JR. held at the McLennan County Courthouse, Waco, Texas to the best of my skill and ability.

I further certify that I am not of counsel nor am I related to the parties in the action, nor am I in anywise interested in the result of said cause.

WITNESS MY HAND this 27th day of November, 1973.

_____
L.E. Gaskey
Official Court Reporter

* * *

EXHIBIT TO MOORE DEPOSITION OMITTED BY AGREEMENT OF PARTIES. FORMERLY PAGES 1607 - 1611.

Answers and deposition of WILLIAM B. OLIVER, III, a Witness in the above-styled cause, called by the Plaintiffs, which deposition was taken on the 8th day of November, 1973, at the Ridgewood Motor Hotel, Beaumont, Texas, pursuant to the following stipulation:

APPEARANCES:

HON. DAVID R. RICHARDS, Attorney at Law, 600 West 7th Street, Austin, Texas 78701, appearing in behalf of the Plaintiffs.

HON. ELIZABETH B. LEVATINO and HON. TOM BLACK, Assistant Attorneys General of Texas, Supreme Court Building, Austin, Texas, appearing in behalf of the Defendants.

CHARLOTTE SMITH, Court Reporter.

IN ATTENDANCE:

HON. PIKE POWERS.

STIPULATION

IT IS HEREBY STIPULATED AND AGREED by and between Counsel for the parties hereto that the deposition of the Witness herein-named may be taken without the necessity of Notice for said deposition, and that said deposition is taken with the same force and effect as though all formalities of law had been complied with.

IT IS FURTHER AGREED that any and all objections to the questions and/or answers will be made upon the taking of this deposition.

IT IS FURTHER AGREED that the signature of the witness herein is waived, and this deposition may be returned into Court and used upon the trial of this cause with the same force and effect as if the applicable Federal Rules of Civil Procedure with reference to the return hereof had been fully complied with; all formalities regarding the return of said deposition into Court are waived and same may be returned by filing same with the Clerk of the District Court of the United States, the District and Division heretofore set forth.

* * * * * * *

WILLIAM B. OLIVER

having heretofore been duly sworn, testified as follows, to-wit:

EXAMINATION BY MR. RICHARDS:

Q. Would you give us your full name, please?

A. William Boyd Oliver, III.

Q. Where do you live, Bill?

A. 1488 Louisiana Street, Beaumont, Texas

Q. How old are you?

A. Jefferson County. Thirty-six years old.

Q. And how are you employed?

A. I am a pastor or minister of Plymouth United Church of Christ.

Q. Where is that located?

A. 1460 Gladys Street in Beaumont

Q. All right. What's your education background?

A. I finished high school, East Chambers High School, Winnie, Texas; Bachelor of Science, University of Houston in Houston and a Bachelor of Divinity from Perkins School of Theology at SMU.

Q. When did you get your BS degree?

A. Fifty-nine - August of '59.

Q. And your Bachelor of Divinity?

A. In '63.

Q. Winnie, that's W-I-N-N-I-E, isn't it?

A. Correct.

Q. And Chambers County is the adjoining County to Jefferson, is that correct?

A. That's correct. Winnie is on the eastern border almost, therefore placing it near Jefferson County and the County seat.

Q. Your father I believe was a Methodist minister in Chambers County, or in Winnie, is that correct?

A. That's correct. He served in the Methodist Church there and then later at High Island which is in Galveston County, just south of Winnie.

Q. When did you come back to this area or take up full-time residence in Jefferson County, or Beaumont?

A. Without break in August of 1963.

Q. Is that when you came to this church?

A. That's correct.

Q. Your wife's name is ---

A. Loretta.

Q. All right. Did she grow up here?

A. She was born and raised - always lived in Beaumont.

Q. Bill, since this is being taken by

deposition and the people who read it can't see you, you are white, is that correct? Caucasian?

A. Yes, sir.

Q. Your wife is --

A. Black

Q. --Black. Is she employed?

A. Yes, she is; by the Economic Opportunity Commission of Southeast Texas.

Q. Does she have any political role to play in the affairs of Jefferson County?

A. She is a member of the County Democratic Executive Committee as Precinct Chairman of Voting Precinct 10.

Q. In regards to the church you serve, is it black, white, mixed - what's the pattern?

A. Plymouth Church is historically a Black church founded in 1918. It's still a Black church, though since 19 -- I was the first white member. Since '63 we have nearly always had one, two, or three white families who are members.

Q. Were you and your wife married in Texas?

A. Yes, we were. In Jefferson County at Plymouth Church.

Q. When?

A. October of '65, though my marriage license was issued out of Bexar County.

Q. Why was that?

A. Because the County Clerk in our County would not issue the license, since it was still-- the Miscegenation Statutes of the State were still operative at that time. It would have been a felony for us to be married. Also there's a Civil Statute relating to that too.

Q. But you're saying at least as late as '65 the County Clerk of Jefferson County would not issue you and your wife a marriage license, is that correct?

A. That's correct.

Q. Where did you get your marriage license issued?

A. Bexar County, Texas.

Q. Bill, without going too heavily into the matter, since your return to Jefferson County in '63, can you tell us the nature of your political involvement, if you have been associated with as campaign managers or other leadership with the campaigns, just summarize it for us, local and National or State level.

A. In the fall of '63 I was a Deputy Coordinator

for the Repeat-The-Poll-Tax-Drive with a door-to-door campaign to turn out the voters; I was the Assistant Director of Voter Registration campaign in the spring of '64 and campaign manager for a Legislative candidate - a Black Legislative candidate - Mr. Albert J. Price. In the fall of '64 I was Coordinator for door-to-door Get-Out-and-Vote-Drive in the National elections in the Johnson-Humphrey race against Goldwater. In the following year I coordinated NAACP voter registration drive. In '66 I assisted in voter registration drive and was campaign manager for a Black candidate for County Commissioner of Commissioner's Precinct No. 4. This was Elmo Willard's race against Ted Walker and Henry Miller. Also, there was a run-off in that race between Elmo Willard and Ted Walker in '66.

I participated in voter registration drives the following year. In '68 I worked as Coordinator in the Get-Out-The-Vote for the County on the Citizens for Humphrey-Muskie which was separate from the Democratic Party Get-Out-The-Vote effort in '68 where we set up separate headquarters and used our own computer lists

for walk lists for door-to-door workers.

I'm sorry. There were a couple of School Board races that come in there that I functioned basically as a campaign manager on.

In the spring of '68 as well, Elmo Willard ran for City Council, and I was campaign manager of his unsuccessful bid to be on the City Council.

Q. In Beaumont?

A. That's correct.

Q. What year was that?

A. Sixty-eight. The City Council elections in our City are on on years.

A. All right. Then--

Q. Then in 1972 I was campaign manager for a Legislative candidate, Albert J. Price, again. Following that I was on the McGovern staff at the Democratic Convention in Miami as a political liaison responsible for Alabama and Mississippi.

Q. Were you a Delegate to the National Convention?

A. No, my wife was an Alternate at Miami Beach. Then following the Convention, went on the State staff of the McGovern campaign in

Austin as Assistant to the State Coordiantor for Blacks. Our responsibility was the voter registration drive Statewide and then the Get-Out-To-Vote, primarily of Black voters.

Q. I may come back to some of those for more specifics later.

I would like, if you would, Bill, to give us a little bit of background in terms of Jefferson County and Beaumont as to the Civil Rights movement activity that has taken place since you've been here. Can you give us some of the highlights as you have seen them since '63 on those items?

A. In the fall of 1963 we had at the Church a college group of Blacks. The reason they were at Plymouth Church, which is cross-town from Lamar University, is that at that point in Lamar's history, Black's did not feel comfortable or were not invited into the religious centers on campus. So we had a Black student organization which met at the church cross-town. Growing out of that, they became concerned with the fact that the Southeast Texas State Fair in '63, the midway was closed to Black children. Black could buy tickets and go to the fair,

but the children could not ride on any of the rides.

Q. Who sponsored the Southeast Texas fair?

A. The YMBL.

Q. What does that mean ---

A. That's the Young Men's Business League--

Q. Of Beaumont?

A. --with a lease from the City.

Q. The City of Beaumont?

A. That's correct. Some of the adult citizens were concerned about it and the students picked up on that and said that they thought there ought to be a picket or something unless that policy was changed. After some negotiation with the City Council and later with the YMBL, on the night on which that picket was to occur, the midway was in fact opened for the first time to Black children.

Following that, the student group, growning out of their concern and to some extent their success with that effort, began to deal with the whole question of public accommodations. As you know this is prior to the passage of the '64 Civil Rights Bill.

Q. At that time what was the status in terms

of in this community, Beaumont, with respect to the availability of public accommodations to Blacks and Negroes?

A. Most all of the restaurants were closed to Blacks - restaurants and cafeterias in the City. Though there had been some effort prior to that, which I was not part of, with downtown lunch counters at Walgreens and what have you, all the major restaurants and cafeterias were closed; until in the spring of '64 there was a whole drive and effort on the part of students and adults in the Black community to open these restaurants. Because of that there were mass arrests, of students primarily, but some adults on trespass charges.

Q. Trespass charges growing out of attempts to get service in restaurants?

A. That's correct.

Q. Were you arrested in the course of that?

A. Yes, several times. I don't have the dates.

Q. Were these arrests by the City Police of the City of Beaumont?

A. Correct.

Q. As an outgrowth of those efforts was there any --

A. Yes, there was. Because of the pressure of arrests and the publicity related to that, and also because of the attitude of this community, the racial tension was such that many of the city fathers, and I use that generally, felt that Beaumont has always been potentially at least tense, if not an explosive situation because of the riots that Beaumont experienced in the '40's --

Q. Race riots?

A. -- Race riots in the '40's, that they needed to move to find some kind of compromise or solution to this problem. The Chamber of Commerce acted with what force and strength it had in trying to coerce and cajole the Beaumont Restaurant Association, and after repeated meetings finally got an agreement where all members of the Beaumont Restaurant Association would in fact open their establishments.

Q. This would have been in ---

A. This was prior to the summer of '64, so it preceded the '64 Civil Rights Bill. So what happened in Beaumont was that because of the arrests, because of the pressure, those restaurants finally opened.

This changed some following the kind of resolution, the spirit and impetus behind that movement related to public accommodations waned some in '64. In '65 it shifted to employment in a concentrated way and it began to address public employment. The '64 Civil Rights Bill at that point excluded governmental subdivisions such as County and City. So it became incumbent then upon the community to seek other remedies to deal with the racial discrimination in employment, both City and County. From meetings and negotiations between leadership and the Black community, it began with both the City and with Jefferson County, with the Commissioner's Court primarily, but ---

Q. Toward what end?

A. Fair employment practices. What that meant at that point in the Courthouse, I should say, even one Black employee, some visibility in the County Courthouse other than janitors. Because up until '65 we had no one.

Q. No Black employees?

A. No Black employees.

Q. At any levels other than just janitorial?

A. Other than menial. There was at least

willingness on the part of only one County official, the District Clerk, to hire a Black, but because of the attitude of the community and because of the pressure of the other people in the Courthouse, he felt he could not do so initially. Some of them said they would never do it.

In fact, the County Clerk, Fred Hill, to this date still has no Black employee in the County Clerk's office. It is quite understandable because his position was very clear at that point. He said that "Niggers ain't ready and they are immoral".

Q. Is he still the County Clerk?

A. He's still County Clerk. There is not a Black face in his office. Eventually in the latter part of '65 and in '66, the first Black employees appeared in the County Courthouse. In the District Clerk's office ---

Q. Is Beaumont the County seat?

A. Beaumont is the County seat.

Q. I didn't realize that. We'll come up with this with documentation here. There was a Civil Rights Commission hearing here in --

A. December of 1965.

Q. Did you have any relationship with the Commission at that stage?

A. No, I did not. A year later I became a member of the State Advisory Committee to the U.S. Commission on Civil Rights, but at that point I had no relationship. I testified at that open meeting. Maybe I should describe it that way. It was officially an open meeting of the Texas State Advisory Committee to the U. S. Commission on Civil Rights.

Q. Did that committee ultimately publish some report with respect to what they found in regards to Beaumont?

A. Yes, they did.

Q. We will clear this up with the report as one of our exhibits later, but can you just summarize?

A. Yeah, I'll be happy to do that. The hearing covered primarily three areas: school desegregation, what was called administration of justice, or what we might call now Police community relations, and, thirdly, employment patterns within this community, both public and private. Those were the areas covered.

At the hearings, testified both school

superintendents and myself on school desegregation and then there was some person from Port Arthur that testified about Port Arthur. I'm sorry, there were three superintendents because I think Doctor Clyde Gott from Port Arthur also testified.

Q. Spell Gott, I'm sure she doesn't have the spelling on Gott.

A. G-O-T-T.

Q. Clyde?

A. Clyde, right.

Q. Clyde Gott?

A. Right. Then in the area ---

Q. What were the findings, just generally?

A. The findings generally were that neither school district in Beaumont had made significant strides toward desegregation of public schools. At that point, South Park had not had a case. The Beaumont Independent School District was in fact under litigation regarding school desegregation.

Q. Let me stop you right here. As I get it, there are two basic school districts that are involved in Beaumont, is that correct?

A. That's correct.

Q. They are South Park --

A. --Independent School District and Beaumont Independent School District. Let's come back to the school districts.

Q. We'll come back to them.

A. Let's finish this. In the area of administration of justice, the findings were that there were still serious problems with the Beaumont City Police Department, though things had greatly improved with the Sheriff's Department in Jefferson County, almost to the extent there were very little if no complaints, but there were still some problems with the Beaumont Police Department.

At that point there were only two Black officers, one uniform and one plain clothesman, for the whole department in a city that's thirty percent Black.

That situation did not exist in Port Arthur where there were a few more Blacks on the department.

In the area of employment, in the public sector of City and County government, other subdivisions like the Mosquito Control District, Drainage District, what have you, again there

was a clear pattern of job discrimination. There were no Blacks in supervisory or administrative positions. In policy making divisions, Blacks were all at menial labor jobs. There were no Blacks present in the Courthouse.

In the area of private employment, there was considerable amount of testimony and findings that even in the major industries in this area there was still job discrimination problems in '65. I might add as a footnote to that, that is not a part of those findings, that there is litigation presently pending before the 5th Circuit on Goodyear, and there have been other cases of job discrimination before the Courts of this County to this date.

Q. Let's turn now to the status of school desegregation as you now see it in the County.

What about the Beaumont Independent School District?

A. The Beaumont Independent School District still maintains racially identifiable schools. There are approximately seven, I think, all-Black schools in a district that operates about twenty-two schools.

Q. You are saying that they remain a hundred

percent Black?

A. A hundred percent Black. In schools that were established for the education of Black children, schools that were for the de jure of racially segregated school systems, and those schools are still maintained to this date. The faculty desegregation in the Beaumont Independent School District still is not done on a racial basis of the entire district.

There is still, to some extent, an informal feeder school operation where students who fail to indicate that they want to go to some other school are automatically forwarded along racial lines from Elementary to Junior High to High School, if you know what a feeder school process thing is.

Q. We are aware, and will make it an exhibit that the Beaumont Independent School District has recently filed suit against HEW because HEW has made just these findings with respect to ---

A. Correct. There is a letter which HEW has sent to the Beaumont Independent School District outlining the ways in which they have failed to adequately desegregate their school system and to take appropriate legal

action to be in compliance with the law. The Beaumont Independent School District has filed a suit to prevent HEW from enforcing that.

(WHEREUPON, A CITY MAP WAS TENDERED TO THE COURT REPORTER, MARKED FOR IDENTIFICATION AS OLIVER-1, AND SAME APPEARS AT THE CONCLUSION OF THIS DEPOSITION).

Q. Bill, the reporter has marked as Oliver-1 a City Map of the City of Beaumont, and you had told me once about Black children still being bussed by the Beaumont District from the north part of the City all the way down to a Black high school. Do you recall telling me this?

A. Yes.

Q. Bill, without doing up our map too heavily here's a red pencil, just show me the area in which you were saying Black school children, Black high school children, were being bussed.

A. In this area which we refer to as Helbig Road.

Q. You have marked around Bennett Road, is that correct?

A. That is Bowen. This is generally Black.

Q. All right. Put a big "X" out beside it.

A. (Witness complying with counsel's request)

Q. Now, you are saying there is a pocket of Black families---

A. High school students are bussed from here--

Q. From where you have marked the "X" ---

A. ---to a Black high school here.

Q. Now, that's ---

A. Charlton-Pollard High School.

Q. Put a "A" down there by Charlton-Pollard.

A. (Witness complying).

Q. Now, that's an all-Black school --

A. That is correct.

Q. In the process ---

A. There's a high school in the same school district right here.

Q. Put a "B" there.

A. (Witness complying)

Q. What high school is that?

A. French High School.

Q. All right.

A. Same school district.

Q. You're saying even today in Beaumont, as I understand it, Black students are bussed past French High School all the way down to Charlton-Pollard, is that correct?

A. There is a white high school here.

Q. What is that?

A. That's Beaumont High School.

Q. Okay, Thank you.

A. I should add so that you might see this, the other school district runs this way around the City.

Q. Is there a similar pattern in South Park without going into any great detail, Bill?

A. Not in terms of bussing at all. There is a racially identifiable Black high school, one hundred percent Black, in South Park Independent School District. That's Hebert High School.

(WHEREUPON, A DOCUMENT WAS TENDERED TO THE COURT REPORTER, MARKED FOR IDENTIFICATION AS OLIVER-2, AND SAME APPEARS AT THE CONCLUSION OF THIS DEPOSITION.)

Q. Bill, this is from the Beaumont Enterprise. Oliver-2 is just simply a 1969 story relating to the issue of the segregation or desegregation of the South Park Independent School District. We will offer it at this time.

Glancing through the story, does that recall to your mind that at least those were

the issues that were stated in '69 ---

MRS. LEVATINO: David, we'll not object to the admission of this as far as that is a story which appeared in the Beaumont Enterprise, but we would object on the hearsay basis.

MR. RICHARDS: We have a stipulation you may have to try to retreat from -- We have a stipulation that they will be accepted, or we will have to argue it to the Court. But the original record in this case and the original stipulations entered into with Mr. Jaworski, among others, permitted the introduction of newspaper stories of this kind for all purposes including that they represented the expressions of those involved at the time on occasion. We will just leave it in the record like this and we can deal with it later.

Q. Bill, reading through the story on Oliver-2, as you know the situation in South Park today even, does that issue still remain? That is, the continued existence of all-Black schools and a resistance to breaking down the racial segregation that has historically existed?

A. Yes, I think so, with the following exceptions I think I can make to that.

The faculty ratio is established so that all schools are maintained with some variance, I assume a very small variance, of faculty ratio that's the same as the student enrollment, ratio of Black and white. There are still all-black schools in that school district. Hebert High School, Blanchette Elementary, I guess A. L. Price Elementary, I'm not sure which others.

But there are now significant numbers of Blacks at South Park High School that had been previously an all-white high school. There are all-Blacks at Odom Junior High School, at least over ninety percent if not all-Black.

There are now some Blacks at Forest Park, but that number is small as compared with South Park. To my knowledge there are still no whites at Hebert High School, although there have been in the past one or two out of an entire school enrollment of somewhere near a thousand.

Q. You will have to accept this from me: In 1956 there was on the Democratic Primary ballot

a referendum with respect to the preservation of segregation of the public school system in the State. Eighty-two percent of those voting in Jefferson County voted for maintenance of the segregated school system.

Based on your observations, what is your opinion as to the attitude of the white citizens of Jefferson County with respect to maintenance of segregation---

MRS. LEVATINO: David, are you going to introduce any vote totals on that?

MR. RICHARDS: Yes. It's a State report on Segregation. It will be one of our exhibits.

MRS. LEVATINO: I mean with regard to the percentage on the vote?

MR. RICHARDS: Yes. I have reference to "The Legal and Legislative Subcommittee of the Texas Advisory Committee on the Segregation of Public Schools." It's a State report.

MRS. LEVATINO: That has this part you---

MR. RICHARDS: Right. This is going to be one of our exhibits. I wasn't

going to make it an exhibit to this deposition.

Q. Keeping in mind that in '56 eighty-two percent of the citizens who voted in the primary voted for preservation of segregation, what is your opinion based on your experience and observation as to the attitude of this County today with respect to segregation? Is it still strong, weak, what is it?

A. I think it would be still strong in terms of opposition.

Q. Opposition to---

A. Total school desegregation. The language and the issues will have changed slightly so there's a kind of retreat to the next trench, if you will, in terms of what that now means. Where it meant maintenance of the dual school system at the time of that vote, it may mean now an attempt to maintain a freedom of choice system, as the present Beaumont lawsuit in fact attempts to do, and the effort on the part of some citizens in the South Park School District to organize a save-our-neighborhood-schools, signed petitions sent to the Congressman of this district---

Q. Your observation is that desire on the part of the white citizenry of this County is still to preserve segregation of the schools, is that right?

A. Correct. The vote totals might be slightly different because there are probably more registered Blacks now than there were at that period. But couched in contemporary language and where the contemporary issues are now drawn, I suspect that the matter would be pretty much the same.

Q. In that connection, to the extent that that eighty-two percent vote reflected a hostility toward Blacks and Black interests, what is your opinion as to whether that hostility on the part of the white community toward Black interests still remains in the County?

A. I think it still remains, and when you get into the political area, I think we can demonstrate that pretty clearly. One example that immediately comes to mind is the present hostility that exists between the white community and Black community concerning the street program in this City. The Black community is right now, at this very moment

in the process of securing recall petitions to recall the Mayor of the City because of his indifference to Black concerns, and it's around a simple matter of a street improvement program that on its face might not appear to be racial, but it happens the improvements are in an all-Black neighborhood, and the only Black Councilman made a motion and there was no second at Tuesday's City Council meeting; there was no effort on the part of any white to stand with him, even to get a vote on that issue.

Q. While we're at it, why don't you detour for a second. Again, we will have more detailed exhibits based upon census tract information, but can you just generally describe for us the area in which Black citizens--you might even do it on this map if it's convenient for you--reside in the Beaumont area, for example.

A. In Beaumont the Black concentration is in neighborhoods rather than as contrasted with Port Arthur, which is in this County.

In Port Arthur--let me do that first, before I turn to Beaumont--the Black concentration is all in one end of town, referred to as the West End in what sociologists would call

transitional neighborhoods. There's a line moving east through the City of Port Arthur, where neighborhoods are chaniging in racial composition from white to Black; whereas in Beaumont Blacks have been historically scattered by neighborhoods. These are used in terms of how people identify where they live in town and what-have-you. Like I reside in the North End; there's a Pear Orchard, there's a Hollywood Village area, there's a Cedar Street area.

Q. All Identifiable as Black pockets?

A. These are all-Black neighborhoods within the City, so there's not one single Black ghetto.

In the North End we're talking about, and once you see the census tracts you'll see the same thing, it's generally now from here (indicating)---

Q. Is that the canal; what is that?

A. This is Lucas Drive, this is generally marsh along the river, and if you use Magnolia east this is nearly a hundred percent Black now. There are some poor white families there, even more so than the '70 census--the '70 census is outdated already, as you might imagine, because of the transition.

Q. What is that on the east; what is this?

A. Brakes Bayou.

Q. Bayou, I see.

A. Really the river eventually, but this is all too low for habitation at the moment.

This is the far north end and it comes down to Interstate 10 and this is still called North End, but it's the Gladys Street area, which is an old Black commercial, and in the '20's was a well-to-do Black Bourgeois neighborhood in a sense. It's not that now. It's run down and dilapidated. There are shotgun structures, many of which still do not have hot water. They are out of compliance with the minimum housing code, and the City is attempting to deal with that. There is a pocket of Blacks historically out here that I pointed to earlier in the Helbig Road area. There is also a brand new Black housing project going up, a hundred and fifty units, in that area.

Then from here there's an area of low income Blacks called Cedar Street that's here (indicating). It is surrounded by industrial development and the City on the east. Right downtown there's a heavy concentration

of Blacks in the Forsythe area, and there are some residents still in there of low income Blacks. There are apartments and row houses in what is called Hollywood Street area. It's here on this (indicating).

Q. Unless you mark up the map---

A. If I start marking the map, you'll just have a bunch of circles.

Q. Just point it out for us.

A. The South End is one of the oldest of the historically Black neighborhoods as well, and this is an all-Black ghetto in the sense that there are almost no white residents there.

Q. This is in the vicinity---

A. Mobil Oil is here, and Charlton-Pollard High School is still on the eastern side of that next to Mobil Oil. The other direction, Pear Orchard, and it's moving east, but this Southern Pacific track I guess--Maybe I better look at the map--One of the railroad tracks--I guess it's Southern Pacific--runs from there south of Washington Boulevard to Eleventh Street and there is another all-Black neighborhood referred to as Pear Orchard. That neighborhood would include housing in neighborhoods

north of there between Fourth and that same railroad track.

Q. What about west of Interstate 10?

A. There are very little Black residents. There are a few scattered families in what we refer to as the West End of Beaumont. There are two pockets of small concentrations of Blacks. One is on Prutzman, and there are less than a hundred people total that we're talking about there.

Q. Let's trun to 1964 and the race for State Legislature for Al Price.

A. Before you do that, I would like to throw in something that we have not talked about. One of the major problems facing the Black citizens in this City is the business of health care and health care services. There have been several attempts to establish a hospital district to care for the indigent. In every case that vote has failed, and the great majority of people seeking indigent care in this City are Black. They are forced to travel to Galveston by car, by bus, what-have-you, to get medical care. This means women in labor, and so there have now been infants born on the

ferry. You're talking about a ferry-boat ride to get to Galveston Island. It seems to me that the reason that we don't have hospital care for the indigent is that there is a kind of attitude of indifference towards this problem. My own impression of that is that it is because the great number of indigent in this City are Black, or else they consider that the Blacks are the ones who are going to benefit from that, so why tax the total population to alleviate that problem. There is pre-natal care for the indigent pregnant mothers, but they still have to go to John Sealy Hospital in Galveston for the delivery.

Q. Are you ready to talk about 1964?

A. Yes.

Q. You have told us that you were the campaign manager for Al Price who ran for the Legislature in 1964. Based upon your information, was he the first black man to ever file for the Legislature, at least in this century?

A. The first Black citizen to run in a Democratic Primary.

Q. At least in this century?

A. That's correct.

Q. Who is Al Price? Tell me a little bit about him.

A. I think this is important for later when you look at the qualifications of the other candidates. Al Price grew up in Beaumont. His father was a prominent Black minister and Principal of Hebert High School until his death, and a prominent Black citizen in the community.

Al Price was a graduate of Morehouse College in Atlanta. He went into the Air Force as a Captain. He was a bomber pilot for eleven years. He returned to Jefferson County where he anticipated becoming one of the first Black airline pilots in the nation, and he returned in the late spring or early summer of 1963 and enrolled at Lamar as a special student, trying to fruitfully use his time prior to becoming a pilot. He became interested in community problems in that process, and worked in the voter registration drive. In January of 1964 he filed for the Legislature as the first Black candidate for the Legislature

He was running against an incumbent, Jimmie Weldon.

Q. Is it your testimony that as far as you know this was the first time a Black candidate had filed in the Democratic Primary for any office?

A. That is correct.

Q. As you recall, and I think you have told us that you were the campaign manager for Al Price in that race?

A. That's correct.

Q. If you can, tell us what was the reaction of the -- Was it a County-wide district?

A. That's correct, the district was a four-member district. The first reaction was a little surprised that a Black candidate would file in the first place. It was brand new, it had not happened before. The newspaper reaction, both the Beaumont Enterprise and Journal and the Port Arthur News, was generally open and friendly toward his candidacy in the sense of providing access for news conferences, providing initial announcements, being willing to sit down with the candidate and talk about his stand, where he was in terms of the issues. The

same thing was true of the electronic media, in this case the television stations at least. He filed against an incumbent, who was endorsed by the Committee on Political Education, or, COPE, in this County.

Q. COPE being the political arm of the AFL-CIO?

A. That's correct. Because of Mr. Price's issues and concern, a platform developed during that campaign, and at the time he interviewed with the Committee, he was treated friendly in the sense of being introduced at COPE meetings. There were no special invitations to attend any local Union functions. He did attend those that covered the whole labor council. They did in fact, however, endorse the incumbent.

Q. COPE, you're talking about?

A. Yes. In fact, we should say as early as then to the present, there have been no occasions when COPE has endorsed a Black candidate in the Democratic Primary for any office.

Q. What about invitations extended to Price by white organizations and groups?

A. Yes, the invitations extended to him were primarily limited to all-Black groups.

Q. Why is this?

A. All right. The whole business of community --You're talking about a County in which you really have a divided community history. Most organizations and otherwise in this County are either Black or white.

Q. How do you mean?

A. Well, the YMCA, for instance. There was a white Y and a Black Y. The Lions Club, Rotary Club, these are white groups. In the Black community there are sororities and fraternities. So in seeking to run for public office, the normal lines open to a candidate in terms of invitations to speak do not exist for a Black man in the same way they would for a white man. So that puts a burden on the candidate to spend an inordinate amount of money.

Q. In the case of Price in 1964, were invitations extended to him by these white groups?

A. There are two examples I am aware of other than the chance to appear before the COPE screening Committee, and those were church groups that he had a chance to speak before.

He did fill out a questionnaire to the League of Women Voters, but most of the invitations for speaking engagements were from all-Black groups.

Q. Were invitations forthcoming?

A. Oh, no, no invitations. He went wherever he could go.

Q. And you are saying that white organizations did not invite him to appear?

A. That is correct.

Q. I take it from what you have told us that Mr. Price's candidacy was unsuccessful?

A. That's correct. He got approximately one-third of the vote in 1964, which if you look at the voting patterns and boxes, he got primarily the white vote.

Q. You mean the Black vote?

A. Yes, the Black vote. I'm sorry. He did pick up some votes that ought to be noted in West Beaumont in boxes which, using some peoples' labels, would be conservative boxes. The other problem was that there was a great disparity between the two candidates. The incumbent was a high school graduate with some professional training as an electrician. He was

not particularly qualified as a public speaker, and in my judgment did rather poorly on those occasions where both candidates did appear, like COPE functions and on the television "Meet the Candidate." Whereas, Mr. Price came off as a rather confident speaker with a positive platform with some well developed issues, with the ability to address himself in a meaningful way. For instance, here is a man who was eminently more qualified than his opponent, whose program and platform had appealed to certain very large number of white residents in terms of their own economic and political self-interests. So if you tried to identify the single reason that the white people voted for the incumbent rather than Price, the vote has to be against him because he was Black.

Q. In 1966 Elmo Willard ran for County Commissioner in this County?

A. That's correct.

Q. Who is Elmo Willard?

A. He is an attorney. He's a graduate of Harvard University Law School, who has practiced primarily in the area of criminal law. He has been here since the middle '50's. He's a member

of the Jefferson County Bar Association, an officer in the Trial Lawyer's Association, and he chose in 1966 to run for County Commissioner in Precinct 4.

Q. And that was against?

A. Ted Walker who was the incumbent.

Q. What role did you play?

A. I was campaign manager for the Willard campaign. There was a third person in that race also.

Q. I believe Willard got into the run-off against Walker?

A. That's correct. There was a run-off election between Elmo Willard and Ted Walker.

Q. Were you active in the run-off primary?

A. I was, yes.

Q. I take it that Walker won?

A. Yes, the incumbent.

Q. During the course of the run-off primary, did you observe or have an opportunity to observe any utilization of racial issues by Ted Walker or at least those persons---

A. I would like to answer that if I might.

Q. Sure. Please do.

A. The first instance that I would consider

using a racial technique and slur occurred during the first primary. During the first primary there was a hand bill used. I mean, a small printed piece of campaign literature, passed by hand and issued at the polls by a person handing out what we in this County refer to as COPE cards or slate cards. These candidates are worthy of support, and it lists them, although COPE did not endorse in that Commissioner's race. In the predominantly white labor boxes in Mid-County, the person assigned the task of passing that COPE endorsement card to voters, also handed this other campaign paper from Ted Walker, and they were handed together, giving the impression that this was the position of organized labor as well.

Q. On the COPE card, COPE did not endorse---

A. There was no mention of the Commissioner's race on that card.

Q. And then the people got a second piece of paper?

A. That's correct.

Q. And what was that?

A. It was a small printed, cheaply printed paper that included a statement "Do you want minorities taking over your Courthouse? They are going to be block voting", words to that effect.

Q. You actually observed this being passed out at the polls in the first primary?

A. That's correct. I observed it by the happenstance of having gone by to see how the campaign was coming.

Q. Then you said there were other instances and you---

A. In the second primary there was a sound truck used by Ted Walker in generally the South Park portion of the City.

Q. The white portions?

A. The white portions, yes. It's an area around his home. We're talking about this neighborhood generally in here (indicating).

Q. On the map that is something south of---

A. Washington Boulevard and east of Avenue C.

Q. His use of the sound truck, was this to encourage white voters in that neighborhood to turn out and vote?

A. In the course of the announcement made over

the sound truck, it indicated that minorities or Negroes were voting heavily over in Pear Orchard and they better turn out and vote.

Q. Encouraging the white voters to vote?

A. Because of the heavy Black turnout.

Q. And this was used in the second primary with Walker?

A. Yes.

Q. I'm assuming that Elmo Willard was defeated by Walker?

A. Yes. And in terms of that vote pattern, more than in the Price race in '64, that race was drawn along racial lines.

Q. Willard getting the Black vote?

A. Willard getting almost ninety-nine percent of the Black vote and Walker getting all of the white vote. There was very little exception to that. Even where Price had picked up some white votes in West Beaumont, Willard got less than Price.

Q. Do I recall that there was an incident in the first primary or in the run-off where white Deputy Sheriffs armed appeared at Black polling places?

A. Yes.

Q. Which was that, the run-off or the first primary, do you know?

A. I'm not certain. We can document it I think.

Q. Tell us about the incident, and at least how it occurred in the Black community?

A. Let me see what happened first. Ted Walker made the decision to have deputies at an all-Black polling place at Hebert High School.

Q. White deputies?

A. White Deputy Sheriffs armed with side arms that were visible. The two polling places--it was Blanchette Elementary and Hebert High School.

Q. Was this viewed by you as intimidation of the Black voters?

A. Yes. The County Democratic Chairman was frightened about the fact that it had occurred. He called the FBI about the matter.

Q. That brings us through the summer of 1966. I take it that we have never successfully--No Black candidate has been successful in the Democratic primary through the primaries of '66. What was the effect---

A. There haven't been any successes through

any primaries up to today.

Q. I take it that Willard was the only Black candidate on the Democratic Primary ballot in 1966, is that correct?

A. Right.

Q. And no Black candidates sought office in 1970 I take it in the Democratic Primary?

A. That's correct.

Q. In the meantime, Al Price is a pilot for American Airlines?

A. That's right. After 1964 he went to work temporarily with the Veteran's Administration, and then NASA, and then was hired as one of the first Black airline pilots in the Nation, and he is at this time.

Q. With Will Smith's death, I believe Al Price decided to make another stab at the Legislature, is that correct?

A. That's correct.

Q. And that turned out to be a six-man race?

A. A six-man race.

Q. Mr. Powers who is with us here was in that race and ultimately did win?

A. That's correct.

Q. What was your role in the Al Price race

of 1972?

A. I was campaign manager for Al Price.

Q. Did Price run a reasonably well-financed campaign?

A. Yes. As a matter of fact, we still have some debts related to that campaign.

Q. But it was an adequately financed race?

A. It was.

Q. Was it a seriously run race on his part?

A. Yes.

(WHEREUPON, A RECESS WAS TAKEN, AFTER WHICH TIME PROCEEDINGS RESUMED AS FOLLOWS).

Q. Bill, the reporter has marked here as Oliver-3 a Xerox of the election returns in the Legislative race, Democratic Primary race, of 1972. This exhibit-3 is what we deem to be the election returns by precinct of the 1972 Democratic Primary involving the race we spoke of. Is that right?

A. Yes, that's correct.

Q. First, I take it, how did Al Price do?

A. Al Price came in third in a field of six.

Q. He did not make the run-off?

A. He did not make the run-off.

Q. Was there a COPE endorsement in the race in the first go-around?

A. No, there was not a COPE endorsement in the normal sense of that word. What the Committee on Political Education did was say there are three candidates in a field of six whom they considered to be qualified in representing generally their viewpoint. Those three were Jerry Hanks, Phil Richey and Al Price.

Q. It did not include Mr. Powers?

A. No, it did not, at that point.

Q. As you view the election, how did Mr. Price fair in terms of--where did his vote come from and how did he fair in the white boxes?

A. Well, the great majority of Al Price's vote was from Black voters.

If you examine the voting patterns in this County, historical and in this race, and if you look at the demography of voting precincts, you will discover that there are relatively few all-Black boxes. There are many, many boxes which are racially mixed boxes because of the historical lines, the migration and what-have-you.

Q. Are there any boxes that you can identify---

A. Yes, there are. Carver School, Box 12.

Q. That's in Beaumont?

A. That's in Beaumont.

Q. That's all-Black?

A. All-Black. Al Price got four hundred and eighty-one votes.

Q. Pardon me. We have the exhibit in evidence. If you will just identify the boxes for us.

A. All right. Box 18, Hebert High School. Box 39, Blanchette School, Elementary School in Beaumont. In Port Arthur you can identify as an all-Black box, Box 58, Washington-Carver School. Box 59, Lincoln High School. And you could say Wheatley School, Box 34.

Q. The exhibit will speak for itself, but are you saying that in those boxes Price ran overwhelmingly, that is, eighty to ninety percent?

A. That's correct. And if you want to compare that then with how he does in terms of the white boxes---

Q. Well, I'm thinking specifically---

A. Would you like me to do that? There is a way I can get at that.

Q. All right.

A. In terms of Mid-County totals, and this

represents almost all white, there are a few scattered Blacks here and there in the Mid-County vote, but it is a predominantly white area.

Q. Are they actually listed in Mid-County boxes on this exhibit?

A. Yes, they are. They are separated out, and there is a total for that Mid-County area.

Q. What area is that in terms of towns?

A. Port Neches, Nederland, Groves is included in that, around the airport and so forth.

Q. How would you characterize that area?

A. That area generally?

Q. Politically, yes.

A. That area is an area that is generally controlled by organized labor interests in terms of its past voting habit and in terms of political ideology that is prominent, although there are other strains in that neighborhood, in those neighborhoods.

Q. But these are basically white boxes?

A. White boxes, and most of these are generally considered labor boxes.

Q. How did Price do there?

A. Price got three hundred and fifty-nine votes out of what appears to me to be - I have not

added it - but ten thousand votes. He got three hundred votes.

Q. He ran sixth in that race?

A. Certainly sixth, and that again is from opponents who ran very little campaigns. One, for instance, Tom Combs, in terms of Mid-County did not appear at the COPE Committee screening sessions, even seeking their endorsement. We are talking about a Lamar student in this case, Combs, who did not spend a great deal of money. He ran considerably better, just simply because he is white and was on the ballot.

Q. Are you saying -- How do you interpret the voting in the Mid-County area, for example, in the Price race; that is, the relatively inconsequential vote he got there?

A. Yes.

Q. Can you interpret that for us? What is the explanation for it?

A. Yes, I think so. Though we spent in that campaign a great deal of money, there was exposure, there was attendance at labor meetings, there was at least - in terms of the formal central committee, there was a recognition of what he stood for ideologically, what his

qualifications were, he was worthy of support, and that was their official position. So on almost any issue that one would identify - there was no incumbent - there was no other endorsed COPE candidate in terms of an endorsement any different than what he received -- The only issue that would stand out in terms of the vote in those white boxes is his race.

Q. Your conclusion is or what you are saying is that one example of what the Mid-County voting boxes reflect in that race in your judgment is that the votes that were cast against Price were on racial grounds, is that correct? Is that what you're saying to me?

A. That's right, that he received no votes when he would have because of every other reason except for race and, therefore, he gets no votes because of race.

Q. You're saying as I understand it that his stance on issues was such that would have normally appealed to the voters in the MId-County area?

A. That's correct, yes.

Q. And that his relatively inconsequential or poor, disastrous preformance there --

A. Three percent or less than five percent.

Q. -- is in your judgment attributable to race?

A. Yes, it is, as it has been in every other race in which a Black candidate has run.

Q. I suppose that there were other white boxes across the County where Price faired poorly, also attributable to race?

A. Yes, that's true. The difficulty with defining some of those boxes is that most of those boxes have Black voters in them.

Q. As you see it, Bill, based upon your experience in the County, working in politics, can a Black or a Black-oriented candidate win the Democratic Primary nomination for the Texas Legislature in this multi-member district or any multi-member district race in this County?

A. I don't think there is any conceivable way that he could do so.

Q. On what do you base that other than experience?

A. Other than experience? Well, it is still related to experience. The fact that no Black candidate in a Democratic Primary has ever been able to secure a significant percentage.

I'm not talking about half. I mean a significant percentage of white vote in this County. Whether they are running for J.P. as Charles Freeman did in Port Arthur, or whether he's running for County Commissioner as Elmo Willard did, or whether he's running for the Legislature as Al Price has done twice, or whether he is running for County Commissioner in another part of the County as Collis Cannon did in '72. In no example has a Black candidate in the Democratic Primary been able to pull a significant portion of the white vote. I mean, that's a fact I guess. There are a lot of things related to that. One, there is an added burden of expense placed on a Black candidate in a multi-member district as opposed to a single-member district, for instance. In this particular circumstance of a multi-member district, a Black candidate has defined ways to communicate to a part of his constituency within that district that there are no easy or normal lines of communication or lines that are available to a white candidate.

Q. What are you saying? Be specific.

A. All right. In terms of -- We mentioned

awhile ago organization, civic groups. As long as civic groups within the County remain predominantly or all-white so that when people get together to talk politics or social issues, they are doing so in an all-white context or an all-Black context and there is no cross-communications of any significant amount, then it is incumbent upon a Black candidate to find the means to communicate to that part of his constituency if he's seeking office. And it means that he must spend an inordinate amount of money as opposed to a white candidate to simply communicate. That's one kind of thing.

In a multi-member district if it is drawn like this one is, it means that every candidate has a double amount of newspaper publicity.

Q. Why are you saying that?

A. He's got to advertise in the Port Arthur News as well as the Beaumont Enterprise. Whereas if you did not have a district quite that size, it might be a little different. The same thing is true of radio. In terms of the TV market, the Port Arthur television station also covers this market. It is a single market in that regard, but that is not true with radio and it

is not necessarily true with newspaper advertising. Those are two sizeable cost items.

Q. But those affect any candidate, Black or white.

A. That's correct, but the difficulty that the Black candidate faces in that regard is that he does not have available to him the access of other kinds of communication in terms of groups and the way people cluster and meet. What we have in terms of the ethos - using a sociological term - of this County is that we still have a rural southern community though we have a layer of industrialization over the top of it. The basic lifestyle of the community, I think as is differentiated from other communities, is that it is a very southern community, and rural southern in that sense. That handicaps a Black candidate in that regard. The other handicap is the great sense of despair and apathy that the Black community generally has towards politics, and we eluded to that earlier with the feeling, you know, Blacks have not only no candidate that has won, but we have no real significant in-put to the extent that there is no responsiveness generally

on the part of public officials, elected officia
because we can't win.

Q. Would one of the factors that operate I suppose in a multi-member district in your view I suppose be, of course, one, this district is still predominantly white?

A. Yes, it is.

Q. And I take it from what you have said to us then that based on past races and past experiences that there remains at least sufficient racial hostility in terms of the white voter to make him resistant to vote for a Black?

A. That's correct. There is a strong racia hostility as far as voting for a Black candidate You know, I should pick up on what one might consider as the exception to that: The fact tha there is a Black City Councilman now in the City of Beaumont. But if you look at the fact that a Black was elected to the City Council in Beaumon and examine what occured at the time of the election, I think that one understands how that exception to what I consider the rule occured.

You have an example here in which a Black was elected by a primarily white group of people

to be a candidate. He appeared on a slate designed by whites who were running against another group of whites and who felt some need to have some support out of the Black community, and felt that the only way to get that was to have a Black candidate on their slate.

Even in the one exception to the rule in the sense of a Black winning an election, you have a situation where the Black himself was not selected by his own community, but rather by the white community to be their candidate. He has expressed the fact that he has to modify his views or soften his accountability to the Black community in order to stay in office. And when he no longer does that, as he feels that he is now more responsible and accountable to his own community, he feels he must resign and no longer seek election. So he will not run for re-election because he cannot be re-elected in his judgment because he now senses the need to be accountable to the Black community.

Q. His name by the way?

A. Calvin Williams.

MR. BLACK: We're going to make

an objection to that testimony as to the mental processes of the Black member of the City Council as being hearsay, and it is not within the knowledge of this witness in any possible way.

MR. RICHARDS: Well, the fact is that Mr. Williams has expressed that to both of us, but --

MR. BLACK: I object to counsel making that remark too.

MR. RICHARDS: All right. We'll let it stand for what it is. Your objection is noted, and let me put that much in the record.

Q. The matters that you have expressed presently, most recently, Mr. Oliver, with respect to Mr. Williams' announced intentions not to seek re-election, are those based on statements made by Williams?

A. Made by Williams directly to me and to others who were present.

MR. BLACK: We have the same objection to that.

Q. Bill, in terms of the Republican activity in this County, I take it that in recent years

there have been Republican Primaries held, is that right?

A. That's correct.

Q. Is there any significant participation in the Republican Primary?

A. No, I consider it no significant participation. There is a voter registration figure in this County of a hundred thousand plus, and there have been between three thousand and thirty-five hundred at the most, Republicans voting in the Republican Primary out of that entire ---

Q. Have they regularly fielded a Legislative slate or a ---

A. Not regularly. There have been one or two Legislative candidates, no successful candidates. There are no Republicans ---

Q. Any Republican elected officials in the County?

A. Out of the General Election, no.

Q. Someone who ran in the General Election as a Republican and was elected?

A. No. I assume that one of the things you are asking, and I'm picking up on your question, is whether there is an option in the minority

community of coelescing maybe with another group of voters, Republican in this case, in order to find some mechanism for having their will expressed in the public sector. And in this case, no, because if you put three thousand Republicans together with the Black vote in the County, you are still swamped. You would be no place. Even if they were willing and we could find common interests around which to coelesce, we would still be in the same position of losing every campaign.

Q. The Democratic Primary remains an effective determinant of all local races, is that correct?

A. That's correct, and we have a one-party County in that sense.

Q. Now, is it fair to say that based upon your testimony, that at least the COPE slate or the COPE endorsement is a principal force in the politics of Jefferson County in terms of success?

A. Yes, it has been. With some exceptions it has been tantamount to election. The first major exception in modern history has to do with the Sheriff's race in 1964.

Q. What about Pike?

A. I'll get to that in a minute.

Q. All right.

A. My version of that at least.

Q. I don't need a lot of history. I just want to know ---

A. There are only three examples, so it's easy enough to do.

Q. All right.

A. That COPE endorsement is so strong in this County, it's easy enough to list the exceptions.

First was the Sheriff's race in '64 in which they endorsed an incumbent who was presently under indictment. The COPE Committee was very divided and they almost didn't get out with an endorsement. In spite of that endorsement, the labor vote split heavily, with the Black vote going to the now incumbent Sheriff, the one that COPE did not endorse. He was successful and the incumbent was defeated. That was one example of the first loss of the COPE endorsed candidate in recent times.

Pike's race I guess is the one that I ought to turn to I guess. There was a COPE -- One of the COPE candidates that was recommended ---

Q. You mean Pike Powers?

A. Pike Powers.

Q. The '72 run-off?

A. The '72 Legislative race, Place 2. Jerry Hanks who was in the run-off with Pike Powers ---

Q. Is Hanks the one who has subsequently been indicted for conspiracy to murder Terry Doyle?

A. Yes, that's my understanding.

Q. That was Pike's opponent?

A. That's correct. Though he was one of the three recommended by that COPE Committee, there was a great deal of division on that COPE Committee regarding support for Jerry Hanks because many of them were aware of activities which they considered inappropriate for a Legislator, and considered him emminently unqulaified to serve, and, therefore, a significant amount of the labor vote in my judgment went to Pike Powers, whom they condisered more qualified than Jerry Hanks.

Q. Are there other significant exceptions that you know of? You don't have to remember them all.

A. They had some difficulty in the Legislative

race - the first primary was Terry Doyle, Jerry Hanks, Nick Lamson.

Q. Some years ago?

A. Yes, and they finally resolved it, but their initial endorsement, they went with Jerry Hanks and Terry Doyle later won. The way in which he did that in fact was getting local Union Support. Organized labor is still a very significant political force in this County. And in spite of the fact that he didn't get the overall endorsement, Terry Doyle was able to in fact pull in some of the Oil, Chemical and Atomic Workers Locals, which was the major bulk ---

Q. In the OCAW, Oil, Chemical, and Atomic Workers, is that the major labor force in the County?

A. Yes, it is.

Q. You have told us I think that there has never been a Black endorsed candidate by COPE, is that correct?

A. That is correct, but they have had sufficient opportunity, even in races in which they did not have incumbents, races in which ---

Q. Al Price I guess actively sought the COPE

endorsement?

A. Yes, and so did Collis Cannon in the County Commissioner's race in '72, so did Elmo Willard in the County Commissioner race, and so did Charles Freeman, Jr. in the Justice of the Peace race.

Q. Bill, have there been occasions -- I take it that you have worked periodically in voter registration efforts.

A. Yes, and in some years was the City Coordinator for effects in voter registration. Let me say why, just as a little bit of background.

Q. Sure.

A. It is extremely important, given the circumstances and the racial attitudes of this County, to work inordinately it seems to me in order to involve Blacks in the political process, in spite of the fact that it has been almost hopeless and is hopeless in terms of the Legislative race, but, you know, maybe the Courts eventually will provide some remedy to this. But given that fact, we have worked every year to register voters. That means spending money, collecting funds in order to do

that, putting out door-to-door people to encourage people to vote ---

Q. Registering voters in the Black community?

A. In the Black communtiy.

Q. Why is that effort required in your view?

A. Because of the hopelessness of the situation because of the hostility of the white community, and because of the need - if you're going to have any effect upon the political decisions that effect the daily lives of Black people in this County - you've got to maximize whatever votes you've got. The Black community represents no significant economic force other than purchasing power in this County. What is available to them in this County in the terms of the whole process of decision making is the use of sheer numbers. You know, we do have thirty percent of the population in the County. Therefore, it is important that the one resource that that community has toward having any self-determination is through the ballot box. For that to happen you've got to get people registered so that they can vote, and what you are doing is swimming upstream, because there is a feeling of despair and hopelessness that you

really can't make any difference. That's why there is the need to go into voter registration drives, efforts to get them out to vote.

Needless to say in most of the cases in terms of get out to vote, in many cases we're not talking about races where there is a Black candidate, but we're talking about so that the Black populace participates in the electoral process.

Q. Have you encountered any resistance from time to time in cooperation with the County tax officials with respect to register Black voters?

A. Yes, of course. One example of this is an exhibit we've got where finally we requested some action by the Justice Department, and FBI agents were actually sent to the Courthouse to overlook the registration process. Following that the tax assessor-collector did in fact then deputize members of the Black community to register voters.

Q. The reporter has marked Oliver-4 a copy of a wire to the County tax assessor which refers to a Mr. Oliver at the NAACP voter registration office. That is you, I take it?

A. Yes.

Q. And that is the circumstances surrounding which you have just testified about the difficulty of securing deputy registrars from the County tax assessor?

A.. That's right. Though I don't have the documentation, I might add that Jefferson County was - following the passage of the Voting Rights Act, there were certain southern States and certain Counties within other southern States that were looked at by Federal Registrars in terms of their procedures. Jefferson County was one of those Counties where Federal Registrars observed the registration process because of the difficulties we had, I assume that that can be looked up and checked into, the activity of the Justice Department following the 1965 Voting Rights Act.

Q. Just one or two wrap-up questions. As you see it has the at large Legislative District as you have observed in the decades you have been here - has it produced Legislators who were responsive to, properly responsive to the needs and interests of the Black community?

A. No, and there is no reason that it should have. If the primary issue around which a

candidate gets elected is a matter of race, then why respond to the minority.

Q. The losers?

A. The losers.

MR. RICHARDS: I guess that's all I have. I pass the witness.

EXAMINATION BY MS. LEVATINO:

Q. We met earlier, but I am Ms. Levatino with the Attorney General's office and, of course, we are representing the defendants in this case.

Mr. Oliver, you have taklked about a number of problems in the Beaumont - generally Jefferson County and specifically the Beaumont City area, which you have indicated, aside from your political views on it, you indicated that there are such things as problems with housing, schools, employment, the County tax assessor not registering people to vote, things like that, In these areas aside from the political things that you have talked about, single-member districts wouldn't resolve any of those problems, would they?

A. Yes, I think they are related in terms of

an isometric relationship of solving problems one-to-one. That may be true in some cases, but one of the problems with a multi-member district is that it compounds the hopelessness on the part of the people about the availability of the political process as a remedy for problems which they face. So there is a drop-out on the political process if that process does not respond in any way to ones participation. And if there is some way to show to that community that one can begin to make decisions that effect your life through the political process, then there is participation at all levels. So it would occur -- You know, there would be participation in the City Council elections, school boards, bond issues, what-have-you. An example of the despair in this community was the recent Constitutional elections yesterday. I don't have the returns with me, but if you will look at the participation of Black voters in the County, you will find that it is almost non-existent.

Q. What was the participation of the white voters in that race?

A. If you look at the ratio, you will find

that there was a greater participation of white voters on that issue. Twenty thousand total votes were cast in the County.

Q. Of the issues that we have talked about which you consider very significant problems in this area, you say that they would tend to participate more for a political solution? In other words, you view most of these issues as solvable politically as opposed to practically?

A. You know, again, as I just said to you, they are not simple isometric ---

Q. I'm saying, was that your testimony?

A. It is my testimony that they are related, although not isometrically. They are related in a sense.

Q. Okay. You spoke for awhile about the campaign or the election that was held for Precinct 4 County Commissioner's Court. Do you still have that map out there, David, that was introduced? I believe it was Oliver Exhibit-1. Would you indicate so that the court reporter can get it the general area covered by Precinct 4, County Commissioner's Precinct?

A. Yes. What is in front of me is a map of

the City of Beaumont. The County Commissioner's Precinct 4 includes more than the City of Beaumont, but I will indicate that portion of Beaumont that is included.

Q. Okay.

A. You are generally talking about a line that follows Railroad Avenue up to College, and out College until you come to Interstate 10. It then moves north to take in two voting precincts that are all-white in well-to-do middle class neighborhoods.

Q. Just tell me physically where ---

A. It goes along Interstate 10 to Calder and out Calder to Major Drive which is in Amelia. You go south on Major Drive to Brooks Road, take Brooks Road west to the County line, and it is south of that line that I just described down into Mid-County, including part of Nederland-Port Neches.

Q. Would you say generally then that for the County Commissioner's Precinct, their population is equally divided?

A. In terms of population, the four Commissioner's Preicncts of Jefferson County are fairly equal.

Q. And this area here in Beaumont City that

you described earlier that is in Precinct 4 as you have just described it, there are pockets of Black neighborhoods down here?

A. That's correct.

Q. Referring to your earlier testimony, isn't this Pear ---

A. The Pear Orchard area.

Q. The Pear Orchard area, which is a relatively substantial Negro area within at least the Beaumont part of Precinct 4, is that correct?

A. That is one large Black neighborhood. It does not represent half of the Black vote in this City. It's less than that.

Q. Well, no. I'm just talking about within that area of the precinct.

A. Yes.

Q. In that election I believe you said that Mr. Willard was running against an incumbent named Walker, is that correct?

A. That's correct.

Q. And Mr. Walker had the COPE endorsement?

A. No, ma'am, he did not. There was no COPE endorsement in that County Commissioner's race.

Q. There was no COPE endorsement. Do you recall what from your recollection - what the

vote was with Mr. Walker and Mr. Willard, what the numbers were there generally, a ballpark figure?

A. A ballpark figure was something like - and we're talking about the run-off election now, the second Democratic Primary in June of '66. It was something like three thousand---

Q. In other words, in the first primary there was a third candidate, and Mr. Willard did defeat the third candidate?

A. That's correct.

Q. And I assume form your earlier testimony that he came in second to Mr. Walker, and they were in a run-off?

A. That's correct. Mr. Willard got approximately one-third of the vote. It was three thousand plus to six thousand plus.

Q. Do you recall in that race in '66 generally what the voter turnout was for that Precinct?

A. For that Commissioner Precinct?

Q. Right.

A. In the first Democratic Primary, which is what -- It is the first place we would compare it, the voter turnout was greater than the

percentage of turnout across the entire County. There was a higher Black turnout significantly and there was also a higher white turnout than there was across the County, attributable to the fact that a Black man was running.

MR. BLACK: We're going to ask him to quit arguing. We understand that he's an advocate in this case, but---

MR. RICHARDS: If you don't think that's fair---

MR. BLACK: We are just asking him to respond to the questions.

MR. RICHARDS: All right.

A. I thought I did. I'm sorry.

Q. This was the first Primary you're talking about?

A. Yes, ma'am.

Q. What about the second Primary or the run-off?

A. There was a highter turnout in that Commissioner's Precinct than anywhere else in the County, and that was attributable to the fact that there is a run-off race in that Precinct that is a local race.

Q. What was the percentage of white and Black

voter turnout?

A. The percentage?

MR. RICHARDS: If you know, by the way.

Q. Yes, this is all based upon what you know. I'm not asking for specific numbers, but I'm saying do you generally know---

A. I do not have that percentage figure, but I am saying that it was higher than the County percentage, which I do know for a fact.

Q. That is that---

A. It is also high in relationship to historical turnouts in primaries. It is lower than the turnout in a General election, but in that particular race and in that Precinct it is not a great deal below. It is so much above the normal turnout in primaries that it is kind of mind-boggling in the sense that so many more participated.

Q. We're talking about the Black turnout.

A. Correct.

Q. What would be the normal Black turnout in a Legislative Democratic Primary race?

A. In which there is no Black candidate?

Q. Yes.

A. The turnout is something like twenty-five to thirty percent.

Q. You're talking about---

A. Registered voters, Black turnout, about eighteen percent Statewide.

Q. I'm just talking about Jefferson County now. What was the Black voter turnout in Mr. Price's 1972 race?

A. Higher than usual for a Primary election.

Q. Could you give us a ballpark figure?

A. No.

Q. Would it be somewhere around twenty-two to twenty-five percent?

A. Of Black registered voters?

Q. Yes.

A. Yes, I think so at least.

Q. And that is higher than the normal?

A. Yes. In every case where a Black candidate runs, the turnout is greater.

Q. In the Black Precincts?

A. And also the white Precincts, which I think is significant.

Q. You have talked about the COPE endorsements. Are there any Black or other political types of organizations in this County?

A. No Black political organizations on a continuing basis County-wide. There have been some efforts at having some neighborhood voters leagues, and only one of those has had any longevity. And it's in Pear Orchard, but it has concentrated primarily on local matters.

Q. So there would be no Black group which would engage in some type of endorsing or slate cards, putting out slate cards, or have there been any---

A. None with any longevity.

Q. Let me finish my question. Have there been any in the 1968, 1970 or 1972 races?

A. There have been some efforts to put together short-term committees, Black groups, relative to those races that did put out information about candidates and how to vote and how to use the machine and who they felt worthy of support, yes.

Q. All right. In the '72 race, let's take the first Primary which Mr. Price was in. Were slate cards furnished by any of these non-longevity groups, as you term them?

A. No slate cards. There were sample ballots which explained the use of the voting machines

and the candidates recommended.

Q. In other words, they did recommend on those sample ballots the candidate?

A. Yes.

Q. Was Mr. Price recommended?

A. Yes.

Q. What about the second race, the run-off, either the---

A. To my knowledge there were no ballots put out that I am aware of in the run-off. There were also no Black candidates in the run-off.

Q. So there really is no attempt by the Blacks in this community to organize themselves, to put up a candidate or to specifically endorse candidates, white or Black, other than what you have just previously mentioned?

A. No, what I said to you--and why I used the word longevity--there have been no successful efforts to have a continuing political organization. Blacks have attempted to function through the Democratic Party unsuccessfully. At times of elections there have been efforts to draw together what existing Black groups there are so that there might be some consensus about candidates worthy of support.

Q. But this generally has not happened?

A. Well, no, it has happened in the sense that the information regarding the candidates gets out. Sample ballots have been put out in elections where there are Black candidates.

Q. In other words, you would have had about three elections where this happened: two of Mr. Price and one of Mr. Willard?

A. One of Mr. Price, two Willards. Freeman from Port Arthur and Cannon in Beaumont.

Q. So this is the only time when there was an organization by the Blacks?

A. To put out ballots.

Q. Okay. Also, in this regard, do any of the Black groups through the churches--You mentioned that some churches had invited---

A. They were white.

Q. Have any of the Black groups which are not politically oriented, such as your congregation, do they seek to either feel the candidate or screen any kind of candidates or invite white candidates to come and speak to them?

A. Yes, for instance, the one voter's league I mentioned to you. Although it concentrates

primarily on local things, local issues--and by that I mean the City School Board races or--They always invite all candidates who have filed for office, and in many cases white candidates show up seeking their support.

Q. But they do not then endorse anyone generally speaking?

A. Yes, they do in those local races.

Q. They do in the local races?

A. Yes. They do not always endorse, but they have a history of endorsing some candidates.

Q. You've talked about the COPE cards or slate cards. In your opinion--we were talking about a 1966 race earlier. Now, in 1970 or 1972 is it your opinion that the COPE cards, slate cards, continue to carry great weight in this County for their candidates that are listed on them? In other words, do people follow them pretty generally?

A. I think they are an effective campaign piece of literature for Union members. I base that judgment on the fact that it is still possible to examine election returns knowing where Union members reside and in which boxes they have numerical strength, and if you look

at the election returns in those boxes you will see that it corresponds regularly to the candidates endorsed on that card. That can be documented.

Q. You said that Mr. Price did not in '72 get the COPE endorsement.

A. That's right, he never has had it.

Q. And Mr. Powers did not get the COPE endorsement?

A. That's correct.

Q. Mr. Hanks, however, did get the COPE endorsement?

A. No, ma'am, he did not.

Q. Well, in the second Primary, didn't Mr. Hanks get the COPE endorsement?

A. It is my impression that they took no action, endorsed no one in that Primary. In any case, even if they had done so, the process of passing out the COPE cards doesn't occur in the second Primary because that COPE card went when we were talking about a full slate of candidates. But it is my recollection that there was no endorsement in that race. I think I indicated why: That race was one of the two exceptions that I named and there was a great

deal of hostility toward Hanks.

Q. You expressed the feeling that the reason Mr. Price didn't get this was because he was Black. On what is that based?

A. Based on kind of a history of things. One, his prior race. He developed a platform, a stance, a program. He is also a Union member of the Pilot's Association. Here is a candidate among six, the only one of which is an active member of the local Union, one whose platform and program was compatible with the platform, program and ideology that was espoused by the labor movement, both Statewide and in this County; a candidate who was qualified; a candidate who had support from Black rank and file Union members, who had some representation on that screening committee; who if one removed the race question would in my judgment overwhelmingly would have received the support. The other thing is that during the period between '64 and '72 there had been a great deal of discussion, informal discussion, going on between leadership in the Black community and members of organized labor in this County, and on at least one occasion involved state

AFL-CIO leadership, discussing how we can get to a point where the COPE Committee might consider endorsing a Black. All of those discussions in which I was present, and that is more than five times at least in which we did this, the feeling - the position stated at that meeting was that there is no way that a local labor official in this County could recommend that they endorse a Black candidate, and then go back to his own rank and file and expect to be re-elected as an officer in the local Union.

Q. On the COPE Board that does the screening and endorsing, are there any Blacks?

A. There have been from two to six. It varies from year to year, but there have been some Blacks who sat on that Board and who would likely vote for a Black candidate to be endorsed, but never in majority.

Q. But they did not vote for Mr. Price?

A. Oh, no, I'm sure they did, but they are never in sufficient numbers to make any difference at all.

Q. How many people are on the Board?

A. I can't give you a specific number, but

it seems to me that the last time I was out -- When the candidates went in - I did not go in because I was not a candidate - that there were approximately thirty-some odd people in the room, and supposedly no one was in there but the Committee. I am not privy to their rules and regulations.

Q. You mentioned that Mr. Price's platform for the issues on which he developed his campaign were ones that would have appealed to the general labor group. Could you specify where Mr. Price's issues and Mr. Powers' issues differed?

A. I'm not sure that I can do that in any definitive way. Let me explain why this is true. Al did not run specifically against Pike Powers. Generally most of their issues -- In fact, they corresponded in relationship to support for the Superport, for insurance reform, some questions around industrial safety, there may have been some differences there where Price's view would have possibly been closer to organized labor than Mr. Powers'. We did not do an analysis. He was not the single opponent. There was not a real tight comparison

between Price and Powers.

Q. Would you generally say that Mr. Powers and Mr. Price had the same - generally the same feeling on the major issues that were issues in that particular campaign?

A. On many issues, yes, because those were the two major contenders in that race from the City of Beaumont. One difference I recall - and I'm sorry that I haven't looked back at that as well - was the support over the Speaker of the House. Price had already declared himself for Price Daniel, Jr., and Pike Powers did later, though he had not at that point.

Q. Pike Powers did in fact later support Price Daniel, Jr.?

A. Later, but at that point he said, no, I will not commit.

Q. But you generally think that if an issue came up before the Legislature - like the Superport - that Mr. Price and Mr. Powers' vote would have probably been the same on that?

A. On that issue I suspect it might.

Q. And it was obviously on the choosing of Price Daniel. I believe some of the other issues -- Were some of the other issues in the

campaign such things as Legislative reform with regard to campaign expenditures ---

A. The position that Mr. Price took was one stronger in favor of Legislative reform than Mr. Powers.

Q. In other words, Mr. Price and Mr. Powers were both in favor of Legislative reform as opposed to one of the candidates not wanting reform?

A. No, not in this County. If you will remember the electorate in this County, all six candidates would have been in favor of reform or they had no hope of doing anything.

Q. But they were both in favor of reform?

A. Yes, but the question then becomes in this arena who stands for how much reform, so it it is a matter of degree and not position. There is a difference.

Q. You have answered my question. That's fine.

A. But there is a difference.

Q. Did Mr. Price receive the endorsement of both the Beaumont paper and the Port Arthur paper?

A. No.

Q. He did not receive ---

A. He received no endorsement from the newspapers.

Q. He received no newspaper endorsements?

A. No.

Q. Do you have in Beaumont any Black representatives on the School District?

A. We now have one Black on the South Park Independent School Board.

Q. And these members of the School District run at large in that School District?

A. In that School District, that is correct.

Q. And you do have a Black City Councilman who is in fact Mayor Pro-Tem?

A. That's correct.

Q. You indicated that he ran on a slate the first time.

A. That's correct.

Q. Did he run for re-election?

A. Yes.

Q. Was he slated on that re-election race, or did he run as more of an independent?

A. No, in the re-election campaign he ran with the same people that he had run with before.

Q. As an endorsed slate by someone?

A. Not in the same fashion that it was don in the past, simply because of the way the campaign literature was put together.

Q. You mentioned also while we're on the City Council, a present issue that is before them with regard to the street improvements.

A. Yes.

Q. Is it true that there was a Capitol Improvements Bond voted awhile back?

A. Yes.

Q. In which there were Blacks sitting on t Committee that put together the capitol improvements, the program?

A. That is correct, in a very small minority.

Q. And they did ask that before they would endorse or recommend this, that some of that money be specifically earmarked for neighborhood streets in the poor Black areas?

A. Yes, and -- Can I finish my answer to that?

Q. Yes.

A. It was done in what the community considers an extremely devious way related to the Fourth Street improvements. It was listed in a kind of general fashion, and the decision now made was one without community

consent in any way which they consider significantly alters what was voted in the bond issue.

Q. But at this point is the City Council and has the City through its government -- Are they improving the streets in the Black neighborhood that generally were requested pursuant to the Capitol Improvements Program?

A. Not pursuant to the Capitol Improvements Program, other than what is in a lumped general area in terms of topping on streets. In that case what is occurring now is in my judgment an inordinate amount of that is going into an all-white area of town. And it was not spelled out in the CIP vote or program.

MR. RICHARDS: CIP doesn't mean anything.

A. Capitol Improvements Program.

Q. As to the general Black community, what issues do you feel, what Legislative issues do you feel are of significant importance to them?

A. The matter of the Constitutional revision, all of the things related to the adopting of a new Constitution because ---

Q. I'm talking about Legislative issues.

A. Well, this Legislature is going to meet as a Constitutional Convention; therefore, I assume it is a fairly clear Legislative issue, but ---

Q. Let me just say this: What issues in the 63rd Legislature were of significant importance to the Black community as opposed to the white community?

A. I don't know. I don't feel qualified to answer that question. I think there was concern over the criminal code, some sections of that possibly, the wage -- You know, you're asking me a question about Bills introduced in the Legislature which I don't have particular knowledge of at the moment.

Q. Maybe I can make my question clearer. We're talking about the kinds of things that a person elected from a multi-member district or a single-member district can actually influence, and what they run on.

Now, what issues, having been very involved in the Black community and seeing their problems -- You have said that your Legislative delegation is not responsive. In what way, on

what issues that were important to the Black community were they not responsive?

A. It's easier for me to answer you in terms of the general issues because I am not familiar with house bills.

Q. I'm not asking for house bills.

A. In terms of welfare reform in the State ---

Q. How were they not responsive is what I'm saying.

A. That's a question in terms of how they voted on specific bills, and I am not qualified to answer that.

Q. Okay. But if they were not responsive to the needs of the Blacks, you must have some idea of what they had to choose to make that statement, don't you?

A. Well, not necessarily.

Q. Would you explain.

A. All right, I'll explain. One, no bills were introduced by a Legislator from this County that I am aware of that significantly were related to the Black interests as opposed to white interests within this County. That's one example. That the -- Well ---

Q. If I gave you an example maybe.

A. Come on, give me an example.

Q. There was a bill introduced to repeal the long-standing part of the adoption code which says that Blacks and whites could not adopt people of the opposite race. Do you think this is of significance to people of the Black community, the repeal of that?

A. Sure.

Q. Did any of your delegation vote against that particular Legislation?

A. I do not know.

Q. Would you consider Legislation with regard to protection of the consumer of significant interest to the Black community?

A. Of course.

Q. Did any of your delegation vote against that?

A. I do not know. I know that this delegation generally is influenced by those concerns which are paramount to the AFL-CIO Legislative record, its listing of a voting record and, therefore, this delegation is under some obligation to show up with a good record if they expect to be re-elected. Many of those issues are in fact related to the Black community

because of that AFL-CIO program Statewide. It is drawn in such a way as to include some Black interests and, therefore, because their labor concern in fact vote favorably on some issues that affect Blacks, but not out of a concern to represent Black constituents.

Q. Is it true that neither Mr. Doyle nor Mr. Powers had the endorsement of labor?

A. I do not---

Q. I believe you have testified earlier---

A. No, I did not testify that Doyle did not in the '72 race. I said that in regard to the earlier race. Mr. Powers did not have it.

Q. Did not have?

A. Did not have.

Q. So he in the sense of having gotten their support, their avowed or open support in his race, he was elected without that, is that correct?

A. It is correct, though he sought it as he said in this room and voted in such a way as to hope to get it in the future in my judgment.

Q. But he was elected without it?

A. Yes, because there was no COPE endorsement.

Q. Getting back to the question of things that might be very significant to the Black population in Jefferson County, would you say that such Legislation as debt collection practices, vocational education, door-to-door solicitation, regulation of these things, bi-lingual programs - I won't go any further--adult education, that these types of things would in fact be of interest to the Black community?

A. Certainly those are of interest to the Black community, as are many other State issues.

Q. Would those also be of interest to the white community?

A. Yes, in some places, certainly.

Q. So would you say that a vote by a member of your delegation for some of these bills could be classified strictly as responding to a white community interest as opposed to a Black community interest?

A. They are votes which are responsive to their constituency, the people who elect them, and in this case it is primarily not the Black community

Q. Well are you saying then that ---

MR. RICHARDS: What he is not saying is --- You're trying to --- The question is put so to ask is there some hostility between the Balck and white community surrounding those issues. Is that what you are ---

MS. LEVATINO: No, that's not what I was asking.

Q. In other words, you are saying that the constituency of a person elected from Jefferson County is strictly those people who voted for him?

A. No. What I am saying is the political accountability is normally in terms of people who help support you and elect you, and that is who you are first accountable to, though your constituency includes everybody else. If you intend to be re-elected, it is incumbent upon a politician to be responsive to the majority of his constituents.

Q. But these issues you would not classify as being either white or Black issues, but rather both?

A. No, I said given this constituency and the predominance of organized labor with a

Legislative program which includes a position on those issues, that under those circumstances it is incumbent upon a Legislator from this district to vote in a way that is responsive to that Legislative program, and included in that program are issues which are clearly of greater priority to the Black community than they are to the white community generally. And the voting record of the Legislators in this district is in response to the majority of their constituents, which in this case is controlled by organized labor.

Q. I'm not sure that you have answered my question, but I'll go on.

But you cannot point to either - any vote or statement or general issue in which the Jefferson County delegation has openly and has obviously voted or done something as a member of the Legislature that would be in opposition to an issue which was important to the Black community?

MR. RICHARDS: I take it you mean currently?

MS. LEVATINO: Yes, I mean current.

A. I assumed that you were. I don't recall

a vote at the moment. I don't think that lets them off the hook on that subject. To be accountable to an electorate also means one must confer with that community to some extent, to be open to their suggestions, and I know of no public meetings at which any of the three present Legislators attend in the Black community.

Q. Do you know of any public meetings that they have been invited to?

A. Yes.

Q. Would you state them please?

A. Carl Parker has been asked on three occasions to address a forum, a Legislative forum group that meets at my church. Let's see.

Q. Has Terry Doyle been invited to your church?

A. Not in that same thing.

Q. Has Terry Doyle been invited for discussion of Legislative issues or issues of importance to the Black community?

A. I don't know. I don't have knowledge of that. I know there have been meetings where other public officials have come where there was a blanket general invitation, and our

Legislators, the delegation including the Senator, are generally considered to be - to have no visibili in the Black community.

Q. Has Pike Powers been invited to any of these discussions since your church has done this in the past?

A. Not as a panel member. We have invited him to come out and meet with people, what-have-you.

Q. Has he ever done so?

A. Not yet.

Q. Not yet?

A. There is some anticipation that he may. He said, I'd like to do that. He has just never found it in his schedule to be able to do so.

Q. In your church or anywhere else that you are aware of, has there been any type of telegram or letter contact or telephone contact with the members of the Legislature concerning the issues they are considering or issues which the Black community would like them to consider?

A. None that I am aware of in recent years with the exception that there have been some conversations with me regarding the fact that

this lawsuit is in process, and there is some concern on the part of the Legislators about their districts ---

Q. So actually, in your statement that the Legislative delegation has not -- The comment that you made that the delegation is not open to the Black community stems basically from your knowledge in terms that they have not actively come to you?

A. Well, I would like to go back and say that the term "they are not open to me" is ---

Q. I don't mean you, personally.

A. To the Black community - is not quite what I said. I said that their political accountability is to the majority constituency of the multimember districts and not to the minority.

Q. No, you did not.

MS. LEVATINO: Excuse me. Can you read that back? I believe he just said that there was a lack of openness---

MR. RICHARDS: A lack of visibility I think.

A. A lack of visibility in the Black community.

Q. But this visibility i, because, as you

term it, in your opinion they have not gone out to the Black community, is that correct?

A. I think the way to understand what my testimony is on that is to compare it with other public officials, and then one can see what I am referring to. The Congressman from this district, for instance, is very often present at functions at functions within the Black Community, whether they are ribbon-cuttings, dedications, political forums, or what-have-you. He has a high degree of visibility. That's what I mean by visibility.

Q. But the Legislative delegation does not--

A. That's correct.

Q. -- show the same--

A. The same visibility, that's correct.

Q. You mentioned that in the County-wide race, the TV station does cover the whole County, if you were going to use TV for a Legislative race?

A. There are three television channels here, not counting the Cablevisions that are functioning, and all three of those stations, their market includes the entire County and more than the County.

Q. And there is a Beaumont paper and a Port

Arthur paper, is that correct?

A. In terms of dailies, that's correct.

Q. And the Beaumont paper is the morning paper?

A. Beaumont has a morning and an evening edition.

Q. So if you were going to cover a district in the County, say, Port Arthur, you would have to advertise in the Beaumont morning paper if you wanted the morning coverage?

A. No. If your district was only Port Arthur, you would not.

Q. I said if you wanted coverage in the morning paper, you would have to advertise--

A. I beg your pardon. That's correct.

Q. When you were managing the Price campaign in '72, was there a great deal of door-to-door solicitation?

A. Yes.

Q. By your volunteers?

A. Yes.

Q. Was there any door-to-door solicitation by the other candidates that you are aware of?

A. Not in the same neighborhoods.

Q. But there was door-to-door solicitation?

A. I don't know what they did.

Q. So you don't know. You are not saying that it wasn't in the Black neighborhood but in another neighborhood; you are saying that you don't know?

A. I'm saying that it was not in the Black and I have no knowledge about the white. It is my understanding that there was not. There was no need to do that.

Q. Do you recall generally what the first Primary - the spread between the top three candidat in the first Primary race in '72 was for the Legisl delegation?

A. Yes. Is it all right to refer back to the actual figures?

Q. Yes.

A. I can tell you that it's ninety-six somethi Let me quote you exact figures. Ninety-six Ninety-six for Pike Powers; Jerry Hanks was eighty-eight forty-one; Al Price was seventy-two forty-one.

Q. I just asked for the top three. In that situation we're talking about generally the spread of about twenty-four hundred votes, right, between the highest and the lowest?

A. Right, about twenty-four hundred.

Q. Twenty-four hundred votes. Would you say then that Mr. Price could not get a significant part of the vote based upon those three figures or did not get a significant part of the vote based upon those three figures?

A. I fail to understand the import of your question. I don't understand the question.

Q. You stated earlier in your deposition that Mr. Price was unable to get a significant portion of the vote case in this election.

MR. RICHARDS: Of the white vote.

A. Of the white vote, and I used the example of Mid-County, he got about three percent of the white vote.

Q. Would you say that given a total spread of twenty-four hundred that in the total vote he did receive a significant portion of the total vote cast?

A. He received a proportion very close to the proportion of Black voters. If you took his percentage of the vote and looked at the percentage of Blacks who voted, you would find that that percentage was very close. So he received Black votes and not white votes.

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MS. LEVANTINO: I believe that's all.

RE-EXAMINATION BY MR. RICHARDS:

Q. Bill, a couple of things have come to mind by those questions.

I take it that there are State agencies that have offices here in Jefferson County?

A. That's correct.

Q. I assume that in the nature of things that employment within those agencies, at least at times, has patronage overtones with respect to what State Legislators or State Senators may want?

A. We certainly get that impression.

Q. What is the pattern in terms of Black employment in State agencies in Jefferson County?

A. The pattern is that we don't seem to have anything like a ratio related to the population of Black employees. In fact, we have no Blacks in significant policy decisions or administrative positions. This district is bereft of that as opposed to other districts in the State. And a comparison could be made between State employees, racial composition in this area as opposed to any other -- not any

other, but most other areas of the State.

Q. You are saying that it is less here?

A. Yes.

Q. Black appointments?

A. Yes.

Q. What about appointments to State Boards or agencies, to your knowledge has there been any significant number of Blacks from Jefferson County appointed to any State Boards or agencies?

A. There is no Black, for instance, on the Board of Regents of Lamar University. I know of only one Black appointment--

Q. Lamar University is here in Jefferson County?

A. That's correct.

Q. Does Lamar University have a fairly substantial complement of Black students?

A. Not in ratio to the population, but--

Q. Would you say ten percent?

A. I don't know, but it is a significant group. It has been there since it was desegregated with some strife, and there is only one appointment that I am aware of that Lt. Governor Hobby made of Elmo Willard to a

Board, and I'm not even sure which Board it is. There is so little of that that I am unable to name you one or the person appointed.

Q. Is it fair to say that in terms of issues about which State Legislators might have some in-put, to wit, appointment of persons to State Boards and agencies, that the Black community has not participated in any significant manner in those appointments?

A. Certainly not in relationship to the percentage of the population.

Q. Would the same be true of employment of Blacks in State agencies in the area?

A. Yes. That is limited in my judgment to the whole business of political accountability. A person who holds public office is accountable to the people who help him get elected to that office.

Q. In terms of Black in-put into the Legislative process, based on your experience and observation, do you feel as if the Black community has any significant in-put in terms of the Legislative process as we know it as far as Legislators from this County?

A No, and the reason--one of the reasons

in my case that I am unaware of what specific bills were before the last Legislature is that it has become in my case, and I think generally for the Black community, it is not of a great deal of consequence what is before the Legislature because we don't have much way to influence what it does about those things.

Q. No way to crystallize issues that might be important to the Black community?

A. If we got---

Q. Is that right?

A. Yes, that's right, because even if we got mobilized around an issue, what would we do about it? We might try to influence a Black Legislator from another district, and we are not even his constituency. My feeling at least is that we wouldn't have a great deal of effect upon the present delegation.

Q. This issue of single-member districts or districts in which people are elected from districts in which they reside was before the voters of the City of Beaumont recently, was it not?

A. Yes, it was.

Q. In what form was it there?

A. It was there in terms of a charter revision.

Q. What was the proposition?

A. The proposition would have allowed for four Councilmen to be elected from wards and voted on by people who are residents of those wards.

Q. That was on the --

A. That was on the ballot, and that proposition failed and the vote along those lines was racial. The Black community voted for elections by wards.

Q And the white--

A. The white community voted to continue the present Charter which has four Councilmen and a Mayor, all elected at large, four of which must reside in a ward.

Q. Would you say on the basis of that at least that representation in individual districts is an issue which is of significant concern to the Black community of Jefferson County?

A. Yes, I would.

Q. Would you say on that issue that these Legislators demonstrated any interest in giving

you single-member districts in the last legislative session?

A. None whatsoever.

Q. Are you aware that efforts existed to bring single-member districts to Jefferson County?

A. Yes, from their pronouncements in the newspaper, not from their voting record which I have not perused.

MR. RICHARDS: I believe that's all.

(WHEREUPON THE DEPOSITION WAS CONCLUDED)

THE STATE OF TEXAS :
COUNTY OF JEFFERSON :

I, Charlotte Smith, a Notary Public in and for the County of Jefferson, State of Texas, do hereby certify that the facts as stated by me in the caption hereto are true; that the above and foregoing answers of the Witness, William B. Oliver, III to the questions propounded were made before me by the said witness, after having been first duly cautioned and sworn to testify to the truth, the whole truth, and nothing but the truth, and the same were thereafter reduced to typewriting under my direction by Pat Harrison: that the foregoing deposition is a full, true and correct transcript of the proceedings had at the time of the taking of said deposition.

I further certify that I am neither attorney nor counsel for, related to nor employed by, any of the parties to this action in which this deposition is taken, and further that I am not a relative or employee of any counsel employed by the parties hereto, and am not financially interested in the action.

GIVEN UNDER MY HAND AND SEAL OF OFFICE, this the _____ day of November, 1973.

/s/ Charlotte Smith, Notary Public
My Commission Expires: June 1, 1975

WITNESS'S CERTIFICATE

THE STATE OF TEXAS:

COUNTY OF JEFFERSON:

I, WILLIAM B. OLIVER III, hereby certify that I have read the foregoing transcript of my testimony given in the foregoing numbered and styled case and that same is true and correct to the best of my knowledge and belief.

That all corrections have been made and initialed by me.

This 28th day of November, 1973.

/s/ William B. Oliver, III

SWORN TO AND SUBSCRIBED FORE ME, this 28th day of November, 1973.

/s/ Charlotte Smith
NOTARY PUBLIC

TO BE PAID BY

IN THE UNITED STATES DISTRICT COURT

FOR THE WESTERN DISTRICT OF TEXAS

AUSTIN DIVISION

CURTIS GRAVES, ET AL VS. BEN BARNES, ET AL	)	C.A. No. A-71-CA-142
DIANA REGESTER, ET AL VS. BOB BULLOCK, ET AL	)	C.A. No. A-71-CA-143
JOHNNY MARRIOTT, ET AL VS. PRESTON SMITH, ET AL	)	C.A. No. A-71-CA-144
VAN HENRY ARCHER VS. PRESTON SMITH, ET AL	)	C.A. No. A-71-CA-145
FRANK A. ESCALANTE,ET AL VS. MARK WHITE, ET AL	)	C. A. No. A-73-CA-115
JAMES GASKIN, ET AL VS. MARK WHITE, ET AL	)	C.A. No. A-73-CA-146

WANDA L. CHAPMAN, ET AL)
VS.) C.A. NO. A-73-CA-155
MARK W. WHITE, JR., ET AL)

Answers and deposition of CLEVELAND NISBY, a witness in the above-styled cause, called by the Plaintiffs, which deposition was taken on the 8th day of November, 1973, at the Ridgewood Motor Hotel, Beaumont, Texas, pursuant to the following stipulation:

APPEARANCES:

HON. DAVID R. RICHARDS, Attorney at Law, 600 West 7th Street, Austin, Texas 78701, appearing in behalf of the Plaintiffs.

HON. ELIZABETH B. LEVATINO and HON. TOM BLACK, Assistant Attorneys General of Texas, Supreme Court Building, Austin, Texas, appearing in behalf of the Defendants.

CHARLOTTE SMITH, Court Reporter.

S T I P U L A T I O N

IT IS HEREBY STIPULATED AND AGREED by and between Counsel for the parties hereto that the deposition of the Witness herein named may be taken without the necessity of Notice for said deposition, and that said deposition is taken with the same force and effect as though all formalities of law had been complied with.

IT IS FURTHER AGREED that any and all objections to the questions and/or answers will be made upon the taking of this deposition.

IT IS FURTHER AGREED that the signature of the witness herein is waived, and this deposition may be returned into Court and used upon the trial of this cause with the same force and effect as if the applicable Federal Rules of Civil Procedure with reference to the return hereof had been fully complied with; all formalities regarding the return of said deposition into Court are waived and same may be returned by filing same with the Clerk of the District Court of the United States, the District and Division heretofore set forth.

* * * * * * * * * * * *

CLEVELAND NISBY,

having been duly sworn, testified as follows, to-wit:

EXAMINATION BY MR. RICHARDS:

Q Give us your name.

A Cleveland Nisby.

Q Where do you live, Mr. Nisby?

A 2440 Cartwright Avenue, Beaumont, Texas.

Q How long have you lived in Beaumont, Mr. Nisby?

A Fifty-two years. About fifty-three years.

Q Let's see. You are currently the President of the Beaumont Chapter of the NAACP?

A That's correct.

Q Roughly, how long have you been President?

A Six years.

Q I think you've told me that you have been active in leadership in the Chapter for some twenty years?

A Over twenty years.

Q You are employed at Mobil Oil?

A Right.

Q The big Mobil refinery here?

A Yes.

Q Employed there I believe you told me some

thirty-two years?

A Yes.

Q First, as to Mobil, when you went to work there what was the circumstance in terms of seniority systems between Blacks and whites?

A When I was hired at Mobil prior to the election of a Bargaining Unit, we had no system. The Company did recognize Company seniority only at that point.

Q Once there came to be Collective Bargaining Contracts which had seniority systems, what was the pattern?

A The policies and patterns then were dual lines of promotion.

Q By that you mean separate seniority lines for Blacks and whites in the plant?

A Completely segregated lines of progression and facilities as such.

Q You mean washrooms, restrooms?

A Yes, everything.

Q Am I correct that the separate lines of seniority resulted in Blacks not having access to higher rated jobs and promotions to better paying jobs?

A No. Let me back up now. Just prior to the

election to go into the Bargaining Unit, Blacks did have jobs in the skilled departments. There were Black painters, Black pipefitters, Black machinists.

Q This would've been in the Forties I guess?

A No, this was in the Thirties, late Thirties. This was during the Thirties. At that point it seemed like there were some easing up off of the depression, and there were no -- Whites had no gripe and no concern about the type of work that Blacks did at that particular time. We were all too poor to be complaining about racial problems at that point.

After the election to go into the Bargaining Unit, somewhere overnight all of the Blacks were taken out of the classified jobs which they previously held and put into semi-skilled jobs with single lines of progression. Well, dual lines compared to white.

Q But am I correct in saying that once that happened that that in effect cut off or restricted Black promotions?

A This is true. This happened during the choosing the Union as a bargaining agent for the employees.

Q And this dates back to the Forties I believe you told me?

A Around '42 or '43, something like that.

Q After that date at Mobil refinery there were separate lines, segregated lines of seniority systems in the refinery for Blacks and whites, is that correct?

A That's true.

Q Isn't it also true that there were Black and white Locals of the OCAW that represented the employees?

A That's true, within the same plant.

Q In the same plant, and I take it that no Blacks belonged to the white Union and no whites to the Black Union?

A That's right.

Q Was this the pattern in the other refineries in the Jefferson County area?

A In the entire Jefferson County, this was the ---

Q This pattern of segregated lines of seniority was the pattern?

A Yes, this was the facts.

Q Now, that pattern continued in terms of separate Locals until what date? Let me refresh your recollection. Was it around 1960?

A Yes, this continued until -- During the Eisenhower Administration, who issued the Executive Order, first through the Armed Forces, through non-discriminating practices in the Armed Services, and then later on it went to the industries that were doing business with the Government, the Defense Department of the United States Government.

Q If you will accept with me that that Executive Order issued about 1956--

A Yes.

Q --then is it fair to say that some time between 1956 and 1960 that the segregated Locals were eliminated and there was a merger of the Black and white Locals?

A Not without some action, not without some cases being filed, charges being filed against the Company with the U.S. Department of Defense as non-compliance to the Executive Order, which meant that a company would have to forfeit its Government Contract if they were discriminating.

So this brought about ---

Q You actually filed some of these charges?

A Yes, I processed them through the regular channels.

Q Later then were similar charges filed with respect to the employment practices?

A Yes.

Q That is, the separate lines of seniority?

A Yes. There were charges constantly filed, even up to this date. Not in the bulk sense as it was during that time, but there are some cases ---

Q Still hangovers, in effect?

A Yes.

Q Remaining effects of the old dual seniority system?

A Yes, that's true.

Q I believe you told me that this year there is still a case that has just been recently settled involving Texas U.S. Chemical here in Jefferson County?

A Yes, this year they were brought to Court.

Q On the old separate segregated system of seniority?

A On the old separate dual lines of progression.

Q Taking you a little fast, but let me see -- Is it fair to say that that pattern that was present in the industries in Jefferson County of segregated Locals and separate lines of seniority continued at least into the middle or

early Sixties as being relatively standard procedure?

A Yes.

Q Did the elimination of the separate lines of seniority which would as I understand permit for the first time Black employees to utilize their seniority to bid for jobs held by white employees, did that create hostility and tension between the whites and the Blacks in this County?

A Yes. Let me explain what happened during the first attempt to correct that situation.

The agreement between the Union and Management was that the Blacks in the Black Local - we would merge, but we would go into the white Union with no seniority, with one day's seniority. Though we had been there, some employees, twenty or twenty-five years. We lived under that for five years before we could get the seniority restored to plant seniority which was ---

Q They kept you under departmental seniority, is that what you're saying?

A No, not departmental seniority. We had plant seniority. So after the merger we began in the single line of progression with one day's seniority so that all the whites that were in

there who were junior employees to all of the senior Black employees ---

Q You were frozen in the position?

A Yes, they could move up to jobs until they seeked all of the jobs that were available that were offered that came up for bid, and the Blacks had to build seniority onto the one day.

Q And this continued into the middle of the Sixties?

A Yes.

Q Was this true throughout the refineries in the Jefferson County area?

A Yes, this was a national union problem that we had along with Management.

Q If memory serves me there was involvement at that stage by the present committee on employment that had been created later by the Kennedy Executive Order and then presumably finally by the Civil Rights Commission itself after it got responsibilities under Title VII, is that right?

A That's true.

Q And all of these things took laborious negotiations?

A Yes, it took a total of five years to be more exact.

Q And the refinery -- Without going into it, I take it that the single biggest industry in this County are the oil refineries and the related petro-chemical industries?

A That's true, that's the major employment.

Q And the pattern that you have described existed virtually in all of these industries during this period of time?

A Yes.

MR. BLACK: I'm going to say this since you keep repeating and asking the same question over and over, if we are not going to get ample time to cross-examine this witness, we're going to object to the whole deposition.

MR. RICHARDS: Cross, right now. You have it.

MR. BLACK: Are you through?

MR. RICHARDS: No, but if you're going to object to the deposition, I want you to have an opportunity to cross-examine. There is no dispute about this. There are judicial records standing six feet

high down here; it's been one of the major problems in the United States. I want you to have him on cross right now. That's fine.

MR. BLACK: Are you through with your questions?

MR. RICHARDS: No, I'm not through, but I want this deposition in, so if you want to cross, I want you to have it.

EXAMINATION BY MR. BLACK:

Q Mr. Nisby, these conditions that you've been describing about Mobil and the industry in which you work, as deplorable as they may be and as unfair as the conditions you have described may be, there is not any of them that would've been changed by having single-member districts in Jefferson County, are there?

MR. RICHARDS: Excuse me. We will stipulate to that. This is obviously not a matter that we contend is in the control of -- It may or may not have been, but we are not contending that the

Texas Legislature had any role to play in altering the condition.

MR. BLACK: Well, that's the only question I have. If they don't have any relevance to the issue in this case, we will object to this ---

MR. RICHARDS: Well, we think it's overwhelmingly relevant to the issues in this case which is the political complexion of this County.

MR. BLACK: But you do stipulate that the single-member district ---

MR. RICHARDS: We are not arguing that the presence or absence of single-member legislative districts in Jefferson County are involved in any significant way in this problem. I mean, if there had ever been a bill introduced in the Texas Legislature concerning fair employment practices, it is conceivable, but I don't know that one was ever introduced.

Our point is not that. Our point is the pattern of this County.

A May I say something to that?

MR. RICHARDS: Sure.

A I think your question does merit some consideration. I recall under Preston Smith and Rufus Kilpatrick was the Representative at that time - they passed some bills to invoke the Charter of the NAACP, and all other Civil Rights organizations in Texas. I have a copy of that. I don't have it with me.

MR. RICHARDS: That would have been in '57 when they passed the -- We're going to have of record the '57 legislation which attacked the NAACP, and you are quite right that the legislators in this County voted for it and we have that of record.

A This was during these periods.

Q It was this one time in '57, wasn't it?

A We say that the actual passing of the bill was this one time -- Is that what you're saying?

Q Well, I'm asking. I'm not saying. I'm asking you the questions.

A Yes, this is true, but in doing that it also sets the climate for the citizens here to constantly rebel to what had no rights under the Law. This was the denial of equal opportunity by legislators.

MR. RICHARDS: I want to tender Mr. Nisby fully on cross at this point for any other questions that you have because I want this much of the deposition to be clearly completed, and if you all have other questions ---

MR. BLACK: That's all the questions we have on the basis of his testimony to this point.

RE-DIRECT EXAMINATION BY MR. RICHARDS:

Q Mr. Nisby, let me see if we've got an answer in on one question.

The breaking down of the separate lines of seniority, am I correct that -- Is it fair to say that -- And the opening up then of white jobs to bid by Black employees - that this created or heightened racial tensions or racial hostilities in the plants in Jefferson County?

A Yes, it did.

Q Does some of it still exist?

A It exists to this day. The results is that in no one union throughout this County -- Well, in each plant Blacks cannot win an office in the Local Union, President or ---

Q Even within the Local Union?

A Yes.

Q And you attribute that in part to the ---

A To the hostile feelings of people within the plant who are members of the Bargaining Unit and who are citizens of Jefferson County.

Q Mr. Nisby, you talked about a couple of other aspects of local segregation. There was a time at least when -- Was it the City that maintained Black and white libraries, is that correct?

A Yes. I might add to what has been previously stated by Reverend Oliver that during the --- Well, prior to the 1964 Civil Rights Law we attempted to integrate or to make use of the public accommodations in downtown, the lunch counters. Some months of negotiation and conciliation with the Chamber of Commerce and the merchants of the City to open their lunch counters to Blacks, and they refused, and conciliation broke off and we had to boycott, picket, the stores with lunch

counters as well as the library which the City operated two libraries. There was an annex for Blacks which was some six to seven blocks from the City Public Library which was downtown.

Q This was again in '63 or '64?

A Yes, in '63, the spring, something like that, and Blacks were arrested when they attempted to use the library as well as arrested when they attempted to sit at the lunch counters.

Well, all of the major apparel shops that had lunch counters, after the chain stores which were - I think it was Walgreen's and Kresge and Morgan & Lindsey agreed to open their lunch counters, your big department stores tore out their lunch counters rather than serve Blacks, and they are out until today. So we had to boycott, and we called all of the credit cards and we quit doing business with these major companies at that point.

MR. RICHARDS: I think that's all the questions I have.

MR. BLACK: No questions.

(WHEREUPON THE DEPOSITION WAS CONCLUDED)

* * * * * * * * * * * *

THE STATE OF TEXAS :
COUNTY OF JEFFERSON :

I, CHARLOTTE SMITH, a Notary Public in and for the County of Jefferson, State of Texas, do hereby certify that the facts as stated by me in the caption hereto are true; that the above and foregoing answers of the Witness, CLEVELAND NISBY, to the questions propounded were made before me by the said Witness, after having been first duly cautioned and sworn to testify to the truth, the whole truth, and nothing but the truth, and the same were thereafter reduced to typewriting under my direction by Loretta Rider; that the foregoing deposition is a full, true and correct transcript of the proceedings had at the time of the taking of said deposition.

I further certify that I am neither attorney nor counsel for, related to nor employed by, any of the parties to this action in which this deposition is taken, and further that I am not a relative or employee of any counsel employed by the parties hereto, and am not financially interested in the action.

GIVEN UNDER MY HAND AND SEAL OF OFFICE, this the 28th day of November, 1973.

_____

My Commission Expires: June 1, 1975.

WITNESS'S CERTIFICATE

THE STATE OF TEXAS:

COUNTY OF JEFFERSON:

I CLEVELAND NISBY, hereby certify that I have read the foregoing transcript of my testimony given in the foregoing numbered and styled case and that same is true and correct to the best of my knowledge and belief.

That all corrections have been made and initialed by me.

This 28th day of November, 1973.

/s/ Cleveland Nisby
CLEVELAND NISBY

SWORN TO AND SUBSCRIBED BEFORE ME, this 28th day of November, 1973.

/s/ Charlotte Smith
NOTARY PUBLIC

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF TEXAS
AUSTIN DIVISION

CURTIS GRAVES, ET AL.
VS. Civil Action No. A-71-CA-142
BEN BARNES, ET AL.

DIANA REGESTER, ET AL.
VS. Civil Action No. A-71-CA-143
BOB BULLOCK, ET AL.

JOHNNY MARRIOTT, ET AL.
VS. Civil Action No. A-71-CA-144
PRESTON SMITH, ET AL.

VAN HENRY ARCHER
VS. Civil Action No. A-71-CA-145
PRESTON SMITH, ET AL.

FRANK A. ESCALANTE, ET AL.
VS. Civil Action No. A-71-CA-115
MARK WHITE, ET AL.

JAMES GASKIN, ET AL.
VS. Civil Action No. A-71-CA-146
MARK WHITE, ET AL.

WANDA L. CHAPMAN, ET AL.
VS. Civil Action No. A-71-CA-155
MARK W. WHITE, JR., ET AL.

* *

APPEARANCES:

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For the Plaintiffs

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MR. TOM BLACK, Attorney at Law, Austin, Texas
MR. LARRY YORK, Asst. Attorney General, 7th Floor Supreme Court Bldg., Austin, Texas
For the Defendants

* * * * * * * *

ANSWERS AND DEPOSITION OF TERRY DOYLE, a witness called by the Defendants, taken before Dwain Coffey, Certified Court Reporter in and for Travis County, Texas, on the 19th day of November, 1973, beginning at 2:00 o'clock, p.m., at the 7th Floor of the Supreme Court Building, Austin, Texas, pursuant to the agreement hereinafter set forth.

Duplicate Taken November 19, 1973

I N D E X

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E X H I B I T I N D E X

EXHIBIT NO.	DESCRIPTION	PAGE MARKED	PAGE OFFERED	APPEARS
DX-1	Census Tract	4	27	Appear on back cover of original.
PX-1	House Bills	40		
PX-2	House Bills	40		

---oOo---

A G R E E M E N T

It is agreed by counsel for the respective parties hereto that time, notice and all other requirements of the Texas Rules of Civil Procedure pertaining to the taking of oral depositions are waived, and that the deposition of the witness named in the caption hereto may be taken at this time and place and may be used on the trial of this case the same as if the witness were present in Court and testifying in person.

It is further agreed that all objections as to the substance of the question are reserved until the time of the trial of such case.

It is further agreed that when said deposition has been transcribed the same shall be delivered to the witness, or his attorney of record, to be by the witness carefully read and signed before any Notary Public and thereafter returned into Court; however, if said deposition has not been so read, subscribed and sworn to by the witness by the time of trial of said cause, said original deposition or a true copy thereof may be offered in evidence upon such trial with the same force and effect as though the same had been so read, subscribed and sworn to by the witness.

TERRY DOYLE,

said witness, after having been duly sworn, was called as a witness by the Defendant, and testified as follows, to-wit:

EXAMINATION,

By Ms. Levatino:

Q Would you state your name?
A Terry Doyle.
Q And you are presently a state representative?
A Right.
Q From the --
A Jefferson County, District 7, Place 1.
Q Okay. Mr. Doyle, would you give us a brief description of your past political activities in Jefferson County on all levels of government?
A In my second term as a member of the Texas Legislature. I was elected the first time in 1970 and again and served the full 62nd session starting in '71.
Q Okay. Did you serve in any other elected or appointed political positions in Jefferson County or subdivisions?
A I was an Assistant District Attorney from May of '63

until February of '66.

Q Have you been involved in any political campaigns other than your own?

A In about '64, '5, there was a proposed election to establish a Junior College in South Jefferson County and I was quite active in that, and was a candidate to be a member of the Board of Trustees, whatever they call it. It failed.

Q The bond election failed?

A Right.

Q And your candidacy along with it?

A No, I would have been a member of the board.

Q Okay. I am going to offer, if you want to see it, this is Jefferson County Census Tract as prepared by the Texas Legislative Council showing District 7 of the State House of Representatives and ask you to --

A I am familiar with it.

MS. LEVATINO: Would you mark that?

(Whereupon, Defendant's Exhibit No. 1 was marked for identification)

Q Mr. Doyle, would you indicate generally on the map the

location? You don't have to name all the census tracts, that's north, south, east, west of the ethnic or racial groups where they are located in District 7.

A Okay. Jefferson County, really, when you speak of racial or ethnic groups, you are really talking about black people and white people. Our minority population of other ethnic groups are almost uniformly scattered throughout the county completely. The only minority groups who live in any concentrated areas are black people, and they would live in what is the northern part of Beaumont. There are a significant number of black people living in concentrated areas. The same is true of the southern part of Beaumont and predominantly the western part of Port Arthur from say Woodworth Boulevard, which runs from the canal north to -- well, actually it runs all the way to Beaumont and from Woodworth Boulevard from the southern edge up to about the KCS Railroad track and west from that line of Woodworth Boulevard, there is another sizeable Negro group. Also, in the area which is identified as Census Tract 116, there would be a size which is west but north of the area I just described. A sizeable area of Black people.

Q In terms of all of Jefferson County, although, not, I

understand, all of Jefferson County is in District 7, what would be the percentage of racial population?

A I would think about two-thirds white, about one-third black.

Q About 33 percent?

A Well, I wouldn't want to get down to that. It might be 30 percent, it might be 35.

Q Okay.

A I would guess about a third.

Q And they are generally located in the areas which you have just described?

A Well --

Q Of the black population?

A That's -- that's accurate, but it's -- it's really not accurate. Beaumont is a big city. It has 100,000 people in it and there are areas in Beaumont, for instance, they have what they call the south end and they have got what they call the north end, and they have got another area of Beaumont which is referred to as the Pear Orchard. This is where they have a large number of black people living, but, generally, you could say there are black neighborhoods. Neighborhoods where the population is predominantly black and the north part of Beaumont -- really in the northwest part of

Beaumont and if you look at it the way I am looking at it in the northeast, the southwest and the south and the southeast parts of Beaumont are significant numbers of black people.

Q Okay. In your experience in running for the legislature, what was the procedure for determining whether or not you were going to run? Did you contact any particular identifiable group for their support? Is there a slating system operative in District 7?

A There is no slating system that makes any difference. In my first campaign, there were six people in the race that I was in in the first primary. In years past, in legislative races, organized labor has traditionally had a slate from the Governor's Office down to the House Offices. And Presidential Offices, and that's a factor in a campaign in Jefferson County. I think it's considerably less a factor now than it was, say, 15 years ago. Considerably less 10 years ago than 15 years ago, for instance. For instance, in my race, I was not their choice and won. Other than that, if you want to call it a slate group, I don't think -- I have never seen one. Now, in each primary which I have run, there have been slate cards, is what I call them, issued by some of the black groups. South end voter's league, it seems

to me, put one out. The south part voter's league put one out. Another one was put out by somebody in the north end. One of the black political clubs. I never had thought they were very effective, any of them. You inquired as to what groups I talked to when I start campaigning and I think I probably do it like most people. You just start talking to as many people that you think can influence the vote of other people as possible. Though Jefferson County is relatively urban, you still have to kind of knock on doors down there and you contact people, you know, doctors, lawyers, bankers, real estate people, preachers, plumbers, black people, white people; just any number of people. I have a list which I keep on a yellow pad, as a matter of fact, with probably a hundred names on it; maybe two hundred names on it that I saw individually.

Q Okay.

MR. RICHARDS: This is a list retained that he saw individually? Is that what he is saying?

A I don't know whether I still have it or not. You know, that's the way I went about it. I would talk to, you know, make an effort to talk to people from every

community, you know, Jefferson County has a lot of cities in it. You need to see somebody that is a factor in Lakeview, a factor in Goodman Park, a factor in the Pear Orchard, a factor in the north end, a factor in the south end. You just see as many as you can.

Q Okay. You have mentioned that there were some slate cards distributed, however, by certain black groups in Jefferson County. Was your name on any of these slate cards?

A Yeah.

MR. RICHARDS: I am not sure this is as form of substance but I am going to object to it in terms unless the witness -- unless you are prepared to produce a slate card. Which I think the best evidence is the slate cards themselves.

THE WITNESS: I might find one.

MS. LEVATINO: We will attempt and if we can get it we will introduce it.

A I can tell you -- I can tell you how you can find that made them up.

Q Well, that's okay. Do you think you can locate one of the slate cards?

A I don't know, I really don't know, I might have -- might have one.

Q Then, as far as from your memory, do you recall whether or not you were on one?

A Oh, I know I was. You mean for or against?

Q For.

A I have been on both.

Q Okay. In both of your legislative races?

A Yes. No, in my last race I really don't remember. I would guess from the votes, the way it turned out, if there were any, I was, you know, they were for me because I did real well in those precincts where they were distributed.

Q Okay.

A In the first election I saw -- I remember specifically seeing one in which I was, you know, they were saying vote for this guy. Another one where they were saying vote for my opponent.

Q Okay. Going back to the labor endorsements, which you spoke of earlier, did you say that you had never received an endorsement of labor?

A I did against a republican.

Q Was this in a general election?

A Yes, but down there that has -- that is not a factor.

That has not been in legislative races. The republicans have not won and have not, up to this point, really come close.

Q Okay. Had you sought the endorsement of labor?

A You don't really seek it. The big one that really counts is the one that is called the Sabine Area Labor Council, and it's actually, it's made up of more than just one county, but I guess it's probably a district of the AFL-CIO. I really don't remember, or part of a district region or something, and it's a group of many labor locals and they write people who have announced that they are going to be candidates a letter and say please come to the so and so place. The two times that I remember going, it was at the old CAW Hall in Port Neches and be there such and such a day and such and such a time and you go in and appear before their group and ask questions about your views on various issues and I answered their questions, and, you know, asked them to vote for me and that was the extent of it. Because I would have asked anybody to vote for me when seeking public office and the first go around they endorsed another fellow in the race, and it seems to me in the last go around, they didn't endorse, if I remember correctly.

Q Okay. To your knowledge, does the Sabine Area Labor Council, in addition to endorsing people, solicit anyone to run for public office?

A Not to my -- no, I am sure they didn't.

Q Okay.

A I say I am sure they don't; I am not a member of that organization and I am not privileged to their meetings and discussions, but it's -- I am confident I would have known of it.

Q Okay. To your knowledge, does the Sabine Area Labor Council involve itself with any of the local races beyond the representative races?

A They have on occasions. And I can't cite you any examples because I don't remember which races that was done in, but it seems to me that I remember it because they were unsuccessful.

Q Okay. But you don't recall?

A It seems to me as though they got in a sheriff's race one time.

Q Okay.

A And it seems to me as though they got into a constable's race one time and they were most unsuccessful in the sheriff's race.

Q Okay. In your campaign or in other campaigns which have

been going on generally the same time you have been involved in, can you recall any specific issues which were part of the campaign related to race or ethnic problems or minority problems?

A In the -- in my races, none that I know of. I never had -- I never campaigned on the basis of color. I actively sought the support of people, you know, black people, white people, labor leaders, management leaders, and I -- I don't remember any were any legislative races.

Q Okay. When you say you actively sought their support, would this include going to that area of town or organizations in that area?

A Oh, my goodness, definitely. Hours and hours and hours.

Q Would it also include advertising and whatever journals or media was available in that area?

A Right. And the minority groups -- let's see. There is one newspaper, that is a weekly, that is slanted definitely toward the black population, is published locally and I ran ads in their paper. There is another one that is printed in Houston.

MR. GEORGE: I would like to object to that unless he can produce the ads. You know, if

you have those ads.

MS. LEVATINO: Okay.

A I am certain I could come up with them.

Q Okay.

MS. LEVATINO: We will attempt to get those and put this in as exhibits for the trial.

A You would find many ads by many politicians. There is another one -- newspaper that is printed, I think, by black people and distributed locally called The Forward Times. I remember the name of it and it's, I think, printed in Houston and they have an addition which they send into the Beaumont area and Port Arthur, and, I think, I think I bought ads in that one also.

Q Okay. If you can locate any of those ads, would you --

A Yeah, but would you start making a list of the things that I'm supposed to find?

MR. BLACK: I would like to add this on those objections. We will make an effort to find those ads, but we are not conceding your objection as good because I don't think it is.

A I am sure they must keep copies of that sort of thing.

Q Yeah, I am sure we can get them.

A It's on Washington Boulevard right next door to Elmo Willard's office.

Q I think we are all familiar with Mr. Willard.

A His phone number? I know that, too.

MS. LEVATINO: Mr. Larry York just walked in. You might want to note that.

Q Can you recall any other campaigns in Beaumont in your area other than legislative campaigns where definitely -- where the issues may be definitely described as racial?

A Well, there is -- there was a rumor that recall effort in Beaumont for the Mayor's office recently. Where, according to what I read in the paper, there was what some people would describe as a racial overtone, a problem about constructing a street without constructing sidewalks that ran through a residential neighborhood that was predominantly black. I am sure there have been -- there may have been others.

MR. GEORGE: Again, we have a problem here of

Doyle - By Ms. Levatino

exactly how to handle, obviously, his rumored testimony here and the testimony from the newspapers at least is hearsay and whether or not he has been qualified to express his opinion on what comes to a racial or nonracial characteristic of campaign doubts and I would like to object to that last question and answer.

A That's --

Q Okay. Would you --

A That's probably not a good example. That's really not a campaign and your question was about campaigns. There was a slate card type election in the Port Arthur Independent School District's School Board race about three years ago where there was -- there was a concentrated effort on two groups. One of which was predominantly made up of black people and which had a white candidate on their slate, and another group of, you know, which was all white people and they had a slate and the busing was a big question, you know, about that time, if you will remember. I guess you would call that a racial problem.

Q Would you -- are there any other offices locally in Beaumont or Port Arthur in which a black holds an

elected office?

A Yes, there is a black on the Port Arthur Independent School District School Board and on both Beaumont and South Park. There is two school districts in the City of Beaumont. The senior member, the member with the most longevity of the Port Arthur City Council, is a black man; like 10 or 15 years, who was mayor pro tem. I don't think he is now. Beaumont City Councilmen, one of them is a black man who, I think, was mayor pro tem last time.

Q What about, are there any blacks in any of the courthouse offices?

A Not elected.

Q Not elected, okay.

A Appointed.

Q But not elected, okay. When you ran in your last two races, what percentage of the black vote did you receive?

MR. BLACK: If he knows.

Q Yes, if he knows.

MR. RICHARDS: Let's separate out primaries and general elections while we are at it.

MS. LEVATINO: Okay.

A The general election would not be very reflective because I had a republican opponent and I got like 75 percent of the vote.

Q I was speaking really of primaries.

A And my last primary, I would say probably about the same as I carried in the rest of the county.

Q Which was --

A About 70/30.

Q So, you received about 70 percent of the total vote?

A Yes, against another incumbent.

Q Okay. Can you --

A If I remember correctly, and I am sure the figures are easily available, I think my percentages in the predominantly black precincts would be about the same as they were in the white precincts.

Q Okay. During your two terms as a legislator, have you ever been approached by any member of the black community with regard to any issues, whether local or ones which were in the -- that were being considered in the State Legislature as to supporting your position or opposing your position or requesting you to take a position?

A During this session, I was approached one time by a young lady who was black on some sort of a school type issue, college issue of some kind.

Q Did it relate --

A I don't think she was even from my district. I don't recall having been called. I don't recall even receiving a letter from anyone in my district which identified them by race, which I even knew, you know, was a black man or -- some of the black people that I see on a, you know, off-and-on, not daily basis but a frequent basis, you know, conveyed their opinions to me on various issues, but I don't recall any of what you would consider minority type problems.

Q Okay. Do you recall any issues during this last legislative session which could be considered issues, which could have a significant importance to a minority group on which you voted and do you recall your vote on those issues?

A Well, we had some busing resolutions again.

MR. GEORGE: I would like to object to that unless you can relay some kind of predicate of what you consider -- and get him to tell us what he is talking about.

Q What type of issue would you consider a race oriented or an issue of specific importance to a racial or minority group that might have come up in the legislature?

A Oh, I guess, the one that got the most press was probably bilingual education.

Q And would you explain that?

A One which Mr. Truan, from Neuces County, introduced a bill which would have provided more state funds for teaching in the public schools and two languages in some of the primary grades, and it was -- it was -- it received quite a lot of publicity and, although that's not a significant factor in a district I represent, because we don't have any -- any type of problem related to Mexican-American people and --

Q How did you vote?

A I voted for that bill, if I remember correctly. There were a number of votes taken by, you know, I understood but you would have difficulty, perhaps, interpreting them on attempts to introduce and get votes on busing resolutions. A subject which is particularly painful to most legislators.

Q Excuse me. By busing resolution, do you mean a resolution showing an intent not to bus?

A Right.

Q For desegregation purposes?

A Right. And I don't remember -- I can tell you what my thoughts are, but there is no way I could recall the votes because the vote might be on a motion to table somebody else's amendment. I understood what was going on but which you would have a most difficult time interpreting.

Q Do you recall or would you consider a bill which would remove a long standing prohibition against members of one race adopting children of another race?

A Yes, I would.

Q And was that bill before the legislature?

A I cannot remember that bill. I remember something about the subject. I do remember that there was not much controversy. I probably voted for the bill. I know the lawyer had reference to it and my recollection is that we changed it and my recollection is that I was in favor of changing it.

MS. LEVATINO: The House Journal would reflect that if you want it.

MR. GEORGE: Do you have the House Bill number?

MS. LEVATINO: Yes, sir. House Bill 49.

Q Do you recall a bill sponsored by a black member of the legislature to require price listing on the sale of retail drugs? It was House Bill 750.

A Mr. Leland of Harris County carried that bill. I do remember the bill and there were a number of votes taken on that bill on various parlimentary maneuverings, if I remember correctly. I was for that bill.

Q So you did vote for --

A That's how I remember it.

Q Okay.

A That's a thousand votes ago, but --

Q Okay. In Jefferson County, do you have an awareness of general voter turn out as to black, or minority voters, and white?

A Yes.

Q Would you characterize the black voter turn out as higher than the white?

A Significantly lower.

Q Does this depend on the candidate that may be running? Do you recall any difference in that turn out?

A No, I think -- I think that -- I don't have the figures, but I would think it would not. Since I have been following politics, I have noticed that. It's significantly lower. In 1970, the year I ran the first

time, there was a concerted effort by a number of black people who I think did a fine job. I remember a little lady named Margaret Plummer whose house I went to and knocked on her door and asked her to vote for me who registered personally -- this may sound ridiculous, but it seems to me it was in excess of a thousand people, black people, and county registration was up over a hundred thousand which is a huge -- 103,000, I believe it was, and their voter turn out in predominately black precincts was significantly lower than the white.

Q Okay. When you campaign, what elements of the media in terms of expenses do you incur?

A We have three television stations which you must use because all of them have a significant portion of the ratings. There are about eight or nine radio stations. There are two daily newspapers, there are two less than daily, one publishes weekly and one publishes biweekly in the mid county area. There is a newspaper put out by the Roman Catholic Church of which I advertise in and not many politicians do, by the way. And two black publications that I have referred to earlier. To win, you need to cover it adequately. You need to spend some money in all of them, every one of them.

Q If District 7 were comprised of, just for example, one

city, Beaumont, and one city, Port Arthur, which of these media expenses could you eliminate?

A None.

Q Why is that?

A Because there are -- every radio station in the county can be heard throughout the county. For instance, probably the most successful and most influential radio station in the county is one owned by a black man and run by black people and it caters specifically to black audiences, and they charge high prices for their ads, real high. And you just -- you would have to go with both daily newspapers, Beaumont and Port Arthur. You might get by without the Port Arthur News, which is the Port Arthur daily paper running in a Beaumont district, but you would be taking a risk because they have a significant number of subscribers in Beaumont. You couldn't run in Port Arthur without using the Beaumont Enterprize, which is Beaumont's daily paper, because it's a morning paper and it has several thousand subscribers in Port Arthur. So, you would have to stay with those. You couldn't -- you couldn't eliminate any of them.

Q Okay. In your campaigns, do you utilize mail outs to members of the district?

A No, it is too expensive.

Q Would you, in your opinion, if the district were smaller or in half, would that be a factor to use mail outs?

A I would attempt to avoid mail outs. I think that this is just one guy's opinion, that the return for your dollar is too low no matter how small an area you are running in.

Q Is that because of the mailing cost?

A Yes.

Q Okay.

A You figure a mail out at a minimum of a quarter a piece and that's a lot of money. That's a whole lot of money.

Q In your campaigning, do you utilize what's generally known as door-to-door or hand-shake type of campaign?

A You definitely have to in Jefferson County. It still -- up until this time when they took the western rural area away from what I now represent, you would spend several days campaigning in that part of the county. Now, I still spend a large amount of time doing exactly that. You go -- you know, you pick out a neighborhood, you see the guy that runs the cleaners. You are not going to -- you might win without doing that but I

don't see how.

Q To your knowledge, do other legislative candidates as well as local candidates for local elections utilize door-to-door campaigning?

A Well, I really don't call it door-to-door campaigning because that's really not what you do. You don't go into a subdivision x, y, and x and start knocking on every other door or anything but, yes, everybody, virtually everybody does some of that kind of campaigning.

Q Okay. Do you recall what your total expenses --

MS. LEVATINO: Well, we will have as an exhibit his expense records.

Q Do you recall what your expenses for the first primary and the general election was this last time?

A I really don't. It was probably around ten or twelve thousand dollars, maybe a little bit more or a little bit less. In the general -- in the first primary. In the general election virtually nothing.

Q You did not have an opponent?

A Yes, I had an opponent, but my opponent didn't spend anything either and she had never held office, and she

had never held office, and she was from the minority party and, you know, I didn't see her when I was campaigning. So, I didn't think she would do anything and she didn't.

MS. LEVATINO: I would like to offer Defendant's Exhibit No. 1 at this time.

(Whereupon, Defendant's Exhibit No. 1 was offered into evidence.)

MS. LEVATINO: Do you want to see this? Do you have any objection?

MR. RICHARDS: No, no, I don't have any objections. Did you all draw that off or did they draw it off over here?

MS. LEVATINO: The Legislative Council did. This is the one that you asked for that.

MR. RICHARDS: Okay. Are you through?

MS. LEVATINO: Do you have any objections?

MR. RICHARDS: Oh, no, I am sorry. I don't have any objections.

MS. LEVATINO: Yes, and I am through.

EXAMINATION,

By Mr. Richards:

Q I see, Mr. Doyle, Jefferson County is really divided between three separate legislative districts. The three member district, which you were elected, and two other districts, is that correct?

A Yes.

Q And I am not an expert about the matter but, as I understand it, District 8, which runs off to Owens County, is that correct?

A Right.

Q You have a portion of Jefferson County which is -- involves mainly a part of the City of Port Neches is over into the District 8, is that correct?

A Right.

Q And then --

A -- I don't think it's in the city, but in that area.

Q In the area of Port Neches, right?

A Right. It's a very small --

Q Uh-huh. Fairly small slice. And then relatively a large slice is attached to district which includes Hardin County and some other rural counties?

A Jasper.

Q Jasper. Now, it was my impression that the fact that district, District 5, reached into what are residential areas, parts of the City of Beaumont, am I right about that?

A Yes.

Q I didn't see them here. What would that be -- would that be this slice in here in, I guess, the Census Tract 3?

A Three.

Q Is that right?

A Yes.

Q Three and --

A -- mostly three.

Q At least as far as Jefferson County is concerned, Census Tract 3 which is in part of District 5 is --

A West end of Beaumont.

Q West end of Beaumont and is a residential area, is that correct?

A Yeah.

Q All right.

A A large portion of that is a very affluent residential area.

Q In fact, I have heard at one point someone suggesting

that that was a heavy concentration of republican voters who were tagged into rural Hardin County. Do you have any knowledge of about whether that fact is what took place in the districting of Jefferson County?

A I voted against that bill.

Q Did you --

A -- I saw it first when it came out to me. Voiced my objections prior to the time it was -- came out of the committee when I first heard what was going on. Made some very nasty comments about it which I would not repeat for this deposition and --

Q Did you consider it to be a gerrymander?

A All of my objections were more district oriented than that.

Q What were they, your objections?

A You could have added Hardin County to Jefferson and stayed within the percentage limitations as we knew them at that time.

Q Uh-huh.

A And zone the same amount of districts or cut us into single member districts or made it a multimember multicounty district and our county would have had an opportunity at least to keep four members of the house. We now have three.

Q And I guess actually the Hardin County Jasper County portions obviously dominate District 5?

A Like five to two.

Q Yes, sir. Okay.

A I think everybody in Jefferson County voted against that. I'm not sure about that.

Q I will, just to test your memory, do you remember actually, of course, this plan was ultimately adopted by what was known as the Legislative Redistricting Board?

A Right.

Q Do you remember whether the plan adopted by the Legislative Redistricting Board was essentially the same as that which was passed by the House?

A Very similar.

Q Okay. And so, I take it then the objections you voiced as to the House bill would have run the same way to that bill adopted by the Legislative Redistricting Board?

A Yes. That district runs from the gulf coast all the way to Jasper.

Q Oh, you mean the -- it runs all the way down to the --

A -- Sabine Pass.

Q Sabine Pass, doesn't it, in South Jefferson County?

I am also told that the legislature from Orange County -- who is the representative, incidentally?

A Peveto.

Q Peveto. He is the incumbent in District 8?

A Yes.

Q I am told there is actually no means to get across from Orange County into his portion of Jefferson County without coming through somebody else's legislative district. That is, I mean, not a large slice even taken out of Jefferson County, is that correct?

A The only way it is logical is if you decide to leave things as they are than to reapportion the whole state.

Q Okay. But am I correct, there are no nature communications between that portion of District 8 and Orange county?

A Not by land.

Q Not by land. Did I understand you correctly and I don't want to jump too far, but you, yourself, would have been receptive to a single member district by in it was preserving the integrity of the county in '70?

A I really don't have real strong personal opinions either way. However, the Legislature of Texas has seen fit to divide itself up into legislative districts and until the Legislature of Texas

appears to me that we should abide by that as we do most of the rest of the laws of the House.

Q Okay. Of course, you will agree with me in that what we are talking about is not the product of the legislature at all but rather a five member board, Legislative Redistricting Board.

A In this county?

Q In this county and in every county except Dallas and Bexar?

A In this county that's very, very similar to what was -- what came out of the legislature.

Q Yeah, but what came out of the Texas Legislature was declared unconstitutional by the Texas Supreme Court, am I correct?

A Yes.

Q And as a consequence of that, a five member board called the Legislative Redistricting Board then redistricted the State of Texas and it is those districts --

A -- no, that's not how it happened.

Q Okay, you tell me.

A The bill never passed the Senate as I remember.

Q Oh, it is your recollection as to redistricting in 1970, that no bill was ever passed in the legislature, is that correct?

A No, you are correct.

Q Okay.

A That was -- the Senate never did reapportion itself. That's what happened. You are correct, I am sorry.

Q That's all right. So, in fact the House was in fact reapportioned?

A By the Board.

Q By the Legislative Redistricting Board after the original plan was declared unconstitutional?

A That's right.

Q Now, you say you think that there is a black member of the Beaumont Independent School District currently?

A And I am not sure about that at all.

Q Okay. You are not sure?

A No, sir.

Q If I told you that there was not, would you be inclined to accept my version of those facts?

A If you, you know, I really don't -- there has been in the past. I did not remember him getting beat or resigned.

Q Okay. We have general -- we have testimony elsewhere that no black has ever been nominated in the democrat's primary for any elective office within the county of Jefferson County. Would you dispute that at least

within the 20th century?

A None that I can recall.

Q You do recall a race by Al Price in 1970, a legislative race?

A Very well.

Q Are you acquainted with Mr. Price?

A Very well. I say -- that's not accurate. I never visited in his home.

Q Sure.

A But I have --

Q Just on the platform?

A But I have drank a couple of beers with him here and there.

Q Been on the platform with him?

A Many times.

Q All right. Qualified legislative candidate as far as you are concerned?

A I would say so.

Q Now, I take it at least in 1970 he ran a fairly unaggressive campaign, did he not?

A It was aggressive, and I don't mean to sound critical of Al because he is a real nice fellow and I really do like him, a real nice fellow. It was aggressive in areas where he didn't need to be aggressive.

Q Where was that?

A He spent far too little of his time campaigning outside the predominently black areas.

Q And that's your judgment about his race, is that right?

A I was on the campaign trail at the same time he was.

Q Did he take any media ads?

A Yes.

Q In the same media that you were advertising in?

A Every one, I would think.

Q So, he was beaten -- two people that got in the run-off there was Pike Towers, is that correct?

A Well, he was barely an incumbent, you know.

Q I mean the current incumbent, I mean?

A Remember Will Smith died and Powers ran for the unexpired term.

Q And got a special election, that's right.

A No, the big race was in the special election, the one Price was in.

Q Oh, all right. And then there was a run-off in that race, as I recall, between Powers and Hanks?

A Right.

Q Now, that was in the democratic primary, was it not, of 1972 that there was a -- that Al Price ran and there was a democratic primary run-off?

A You're right because the primary election was just before the election for the unexpired term, I believe.

Q That's right. I think you are correct.

A There was just a very short space of time.

Q Actually the democratic primaries either were not able to reopen or after Will Smith's death a late filing, is that correct?

A Will died after the filing date.

Q Uh-huh.

A So, they had to reopen.

Q Right.

A Price, I think, filed in that also. I am not sure, he may not have but there were five or six guys that got into that race, Powers, Hanks, Price, a guy named Richey, and I think all of them filed in both, and I am not sure about that, but there was --

Q Ultimately the run-off of the democratic primary was between Hanks and Pike Powers, is that correct?

A Right.

Q Am I correct that Hanks is under indictment for conspiring to murder you?

A Yes.

Q Had he held office before?

A Not any elected public office.

Q I guess in your opinion he was not particularly qualified for public office?

A It's hard for me --

Q To judge him objectively?

A As on that question objectively at this point.

Q Are you generally aware, for example, that as far as the Beaumont Independent School District it is still operating all seven black schools? Is that a fact that has ever come to your attention?

A No. It never has come to my attention.

Q Would it --

A -- I live in Port Arthur.

Q I am aware of that. You and Parker are actually residents of Port Arthur, are you not?

A Yes. When I first ran, I lived in Pear Ridge.

Q Is that a part of --

A -- it's a small community on the northern edge of Port Arthur.

Q Would it surprise you if I told you that as late as 19, oh, the early 1960's that there were -- this was still a common place in the Beaumont papers that ads for housing, sales and rentals broke housing down into colored and not colored?

MS. LEVATINO: We will object to that.

MR. RICHARDS: Why?

MS. LEVATINO: Nothing to show that the ads did run.

MR. RICHARDS: Oh, I see.

Q Would it surprise you to know that that was a common place and that Beaumont carried it's housing ads or rental sales under colored properties and one list for white?

A No, it really wouldn't surprise me.

Q Okay. I take it from what we have been told that at least the dominant industries in Jefferson County are oil refining and the petrochemical related industries, is that right?

A Yes, that would be accurate. There is more to it than just oil refining.

Q Yes, I am sure there are, what are you saying?

A Well, we have three real large oil refineries.

Q What are they?

A Texaco, Gulf, and Mobil. And there there are a number of smaller petrochemical related industries, plastics, rubber. Jefferson Chemical Company, take for instance, has got 1,500 employees. A lot of them using feedstock

from the three big ones, but it's a refinery, it's a refinery community. It's a typical industrial south community.

Q Mr. Doyle, I have got here a list of bills introduced by you in the two sessions by which you served, the 62nd and 63rd. If you would just glance through and see if you can confirm to me that they are accurate.

MR. RICHARDS: Let's see. Mark these for me. Mark these Plaintiff's Exhibit 1 and 2 for me.

(Whereupon, Plaintiff's Exhibit No. 1 and Plaintiff's Exhibit No. 2 were marked for identification.)

Q You can check it out if you want to. Plaintiff's Exhibit No. 1 purports to be the bills introduced by you in the 63rd legislature just by name and caption and those on Plaintiff's Exhibit 2 are bills of the 62nd. Would you glance through and see if you can confirm for us if those are accurate summaries?

A I was a sponsor or co-sponsor of all the bills that you have listed in Plaintiff's Exhibit 2. But I am not sure that it is complete.

Q All right.

MR. RICHARDS: If the reporter will, we will make that available to you and if it is agreeable we will leave a blank at this point in the deposition for you to insert any additional bills that you have sponsored in the 62nd legislature, if it is agreeable with you.

MS. LEVATINO: All right.

A The same answer with respect to Plaintiff's 1.

Q And if I am clear then, as to each of those exhibits, they accurately reflect legislation which you sponsored or co-sponsored?

A Well, for --

Q You are not certain they are complete in terms of all the bills, is that correct?

A Right. And they are not -- for instance, in Plaintiff's 1, in HSR 4, "Providing for mailing of House journal," I was walking by the speaker's desk and there was a stack of these things up there and they needed someone

to sign one because it is something that has to be done at the end of the session, see.

Q Uh-huh. You would not consider that one of the major pieces of legislature?

A And the same is true with respect to the bills in the 62nd. A lot of these were local bills which the County Commissioners asked us to support or the Drainage District had asked us to support or the Lamar College had asked us to support and they would be, you know, they were noncontroversial local bills and no one was hollering about and until you handed me the list, I didn't remember which ones I had signed. For instance, the same is true with some bills of this type.

Q Okay. If we can have the same understanding as to both the 62nd and 63rd legislature, if there are any omissions with respect to our Exhibits 1 and 2, I would appreciate it if you would assert or attach a list to the deposition.

A I would think that's probably accurate and I do remember doing some work on each of these.

Q You characterized busing as a painful resolution?

A Yes.

Q Painful because it raises what? Strong feelings among the community?

A Well, for a person who represents a district like I do with, you know, a relatively large number of black people or I am sure the same would be true representing a large Mexican-American population. A resolution means so little as to the effect it's going to have on the lives of the people involved and it is so easily misunderstood by people who, you know, see where Doyle voted so and so and you just rather have them not come up really. I certainly don't mind ever taking a stand. You know, that's what you are elected for, but you hate to do it just for the sake of, you know, having somebody get angry and upset. Where it is not going to accomplish anything.

Q Well, granted. I suppose it is fair to say that in Jefferson County as a county in Texas which the issue of desegregation of the schools has been a highly controversial issue?

A Well, you would have to compare it to something, obviously. Compare it to other counties, I would say that we have a relatively smooth time of it compared to others, I would say we have had a relatively bad time of it. Since the Board of Education, we were in, in my opinion, a little slower than we should have been, but then I, you know, we haven't had the fights

and killings and, you know, that sort of thing that you read about that has come about in some other areas.

Q Well, are you aware that the Beaumont Independent School District has brought suit against the Department of Health Education Welfare in effort to restrain the Department of HEW from further desegregation efforts in Beaumont?

A I was aware that there was a lawsuit pending between the Beaumont Independent School District and that agency. I didn't really know.

Q Okay.

A There was an article in the paper or on the radio this week, as a matter of fact, about it.

Q Calvin Williams is a black member of the Beaumont City Council, right?

A Very capable person.

Q That's his name?

A Yes, sir.

Q Now, you suggested he had been in office some 10 or 15 years?

A No.

Q This is only his second term, is it not?

A No, you misunderstood. The one I had reference to was a man in Port Arthur, Mr. Guidry.

Q I misunderstood you. Since about 1970, is that correct?

A Yes, I think that's correct.

MR. RICHARDS: That is all I have. Thank you.

EXAMINATION,

By Mr. George:

Q I have three or four brief questions, Mr. Doyle. How are you employed other than being employed as a legislator?

A I am an attorney.

Q Are you in private practice?

A Yes.

Q Are you associated with any other lawyers or attorneys?

A Three.

Q What is the name of the firm you are with?

A Provost, P-r-o-v-o-s-t, Umphrey, U-m-p-h-r-e-y, Doyle & Mehaffy, M-e-h-a-f-f-y.

Q All right, sir.

A We have one associate and he is not named in the firm.

Q All right. Has any republican ever been elected to the State Legislature from Jefferson County?

A Not to my knowledge.

MR. RICHARDS: Not in the 20th century, at least.

Q Has there ever -- would you, as an office holder and politician who has been involved in politics for what, about eight years now?

A No, well, if you count that little school thing.

Q I was starting in 1965.

A Yeah, but I didn't do much between '65 and the time I ran.

Q And you have run two races at least?

A Two legislative races. A lot more races than that. I had a first primary and a run-off and a general election and then a primary. Five races, actually.

Q Okay. On the basis of that experience, can you tell me what -- well, during that period of time, can you tell me if the republican party has filed candidates in each of those legislative --

A Yes. I have run against a republican every time I have run.

Q Can you tell me whether the racial -- the race of your opponent, the republican opponent?

A Yeah, I knew them both.

Q Would you tell me?

A Yeah, they were white.

Q They were white and their sex?

A Caucasian.

Q Non-Negro, right?

A First was a white male, second one was a white female.

Q All right.

A First one ran pretty hard, matter of fact.

Q Campaigned pretty hard?

A Yeah.

Q Did you campaign pretty hard in response?

A I sure did.

Q Can you tell me where you live in this area?

A Uh-huh.

Q Where is your home?

A You see Memorial Boulevard in the south end of the county?

Q We will identify these by census tract, I suppose.

A All right. I am going to have to have that. This is Woodworth Boulevard. It runs north and south just about through the middle of what is now -- we call south county or, you know, the populated area. This is 32nd Street. (Indicating.) I live just slightly north of 32nd Street and slightly west of what is Memorial

Boulevard which is an extension of Woodworth Boulevard.

MR. BLACK: That would be in '68?

Q Census Tract No. 68?

A Right.

MR. GEORGE: I don't believe I have any other.

FURTHER EXAMINATION,

By Mr. Richards:

Q Mr. Doyle, how old are you?

A Thirty-four.

Q Does Carl Parker live in Census Tract 68, or do you know?

A No, Carl -- let's see. Carl, I think, lives in 55.

Q I see. That would be further south, is that correct?

A Uh-huh.

Q All right.

A Carl lives on 6th Street which is only four blocks from the canal. Right down in the southern edge of the city.

MR. RICHARDS: That is all I have.

FURTHER EXAMINATION,

By Ms. Levatino:

Q I have one thing that was brought up. Is it a practice in the legislature, of course, to have certain bills drawn up that a member may be the primary sponsor and then have a number of other members sign the bill on the day it is introduced or prior to introduction?

A Oh, Lord, yes. For instance, on the -- on some, bills have, you know, 50 signatures.

Q Okay. But in generally as would be reflected in a record such as on the House Journal, would all 50 signatures of the bill be reflected?

A Not necessarily.

Q It would just normally be one or two?

A Yes.

Q Okay.

A In fact, of all the bills in Plaintiff's 1, about three or four of these bills took up probably 80 percent of my time, like the penal code and the tax reform legislation. There was, for instance, the House Bill

1337 and 38. Those were two of ten bills which I had done a bunch of work on on the Watering District and my name got on those two but it just as easily could have gotten on, you know, any one of the others.

Q So, is it fair to say that there might be legislation in which you are personally very interested that someone else may have drawn up and you would sign it along with other people but you are not reflected as the natural sponsor of the bill?

A That's correct. And there is other legislation which, you know, takes up a hundred hours of your time that your name is not on. Like the penal code last go around. I was on it this time, but the time before I was not one of the authors. I spent, you know, five or six hundred hours on it, working on it.

Q Okay.

A That's not a very accurate -- well, it is to a degree accurate. It reflects what you do, but it -- I would not want it to appear that's all I did was work on this legislature.

Q Okay.

A For the record, and if it is admissible, fine, if it is not admissible, I will understand. Both sides can object. It is something that I think needs to be said.

And something that neither party has aked me about. Jefferson County probably presents one of the more difficult redistricting problems in the state. It's impossible to take the surplus, and we have 25 or 30,000 surplus west, it's not impossible, but if you have to go all the way to Galveston to pick up any people, then, Galveston has an access. You can't go East because Orange County is there and it's got almost a perfect district, and you can't go South because that's Louisiana and Lake Sabine. And when you go North and Northwest you start re-doing all of East Texas, essentially, North and Northeast. With respect to the black problem, it is one I recognize, and it pains me; and to accomplish what the plaintiff's in this lawsuit seek to do is to gerrymander as bad as -- as anything you will ever see in legislature redistricting. If you divide the county logically, if you just assume that single member districts are a good thing, you can preserve even city lines, you know, along the community of interest basis. Port Arthur, Griffith Park, Lakeview, and Pear Ridge, for instance, make up a perfect legislative district. Netherland, Port Neches grows, the southern part of Beaumont, would make up a very logical district. That would not result, under

any circumstances in the election of a black man in the House.

The county is about a third black and you are going to have to somehow get 50,000 of those people in one district, and if you do, you have got to run it from Northeast Beaumont to Southwest Port Arthur.

FURTHER EXAMINATION,

By Mr. George:

Q Why did you say it would not result in the election of a black man?

A Because you are going to have -- it's not going to insure, if I said would result, that's improper. It's not going to insure because to insure, the election of a black individual you are going to have to have, if their voting turn outs continue to be as they have and they continue, you know, that continues to be true in the future, you are going to have to get about 60 percent of a district which is black in order to almost guarantee someone from that race being elected; and it's sure going to be a funny looking district.

MR. GEORGE: That is all.

MS. LEVATINO: Thank you.

(Witness excused.)

I HEREBY CERTIFY that I have read the foregoing deposition and that this deposition, together with my corrections, is a true record of my testimony given at this deposition.

_____
TERRY DOYLE

SUBSCRIBED AND SWORN TO BEFORE ME, this the _____ day of _____, A.D., 1973.

_____
Notary Public in and for
said County

STATE OF TEXAS |
COUNTY OF TRAVIS|

I, Dwain Coffey, Notary Public in and for Travis County, Texas, do hereby certify that the facts stated by me in the caption hereof are true, and that the said witness did make the above and foregoing answers in response to questions propounded as shown, and that I did, in shorthand, report said proceedings, and that the above and foregoing typewritten pages contain a full, true and correct transcription of my shorthand notes taken on said occasion.

WITNESS my hand this the 26th day of November, A.D., 1973.

_____
Notary Public in and for
Travis County

* * * * *

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF TEXAS
AUSTIN DIVISION

CURTIS GRAVES, ET AL VS. BEN BARNES, ET AL	NO. A-71-A-142
DIANA REGESTER, ET AL VS. BOB BULLOCK, ET AL	NO. A-71-CA-143
JOHNNY MARRIOTT, ET AL VS. PRESTON SMITH, ET AL	NO. A-71-CA-144
VAN HENRY ARCHER, ET AL VS. PRESTON SMITH, ET AL	NO. A-71-CA-145
FRANK ESCALANTE, ET AL VS. MARK WHITE, ET AL	NO. A-73-CA-115
JAMES GASKIN, ET AL VS. MARK W. WHITE, ET AL	NO. A-73-CA-146
WANDA L. CHAPMAN, ET AL, VS. MARK W. WHITE, JR., ET AL.	NO. A-73-CA-155

ORAL DEPOSITION OF REV. RODNEY HOWELL

Taken November 21, 1973

BOBBY G. ROGERS

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APPEARANCES

FOR THE PLAINTIFFS: HON. GEORGE KORBEL
Mexican-American Legal
Defense and Educational
Fund
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301 North St. Mary's Street
San Antonio, Texas

FOR THE DEFENDANTS: THE ATTORNEY GENERAL OF TEXAS
SUPREME COURT BUILDING
AUSTIN, TEXAS

By Hon. Elizabeth B. Levatino
Hon. Larry York

---oOo---

- A G R E E M E N T -

THE PARTIES to the above entitled and numbered cause, through their respective attorneys of record appearing herein, waive notice, service and time; and agree that the deposition of REV. RODNEY HOWELL, may be taken on behalf of Plaintiffs on the 21st day of November, A.D. 1973, before Bobby G. Rogers, Certified Shorthand Reporter in and for the State of Texas.

THE PARTIES FURTHER AGREE that all objections as to form and substance will be made by the Parties at the time of the taking of the deposition. THE PARTIES FURTHER AGREE to waive reading of the deposition to, or by the witness, and the signing thereof by the witness, and agree that same may be returned into Court by the Reporter, or the attorneys of record for filing in said Court, and be used on the trial of these causes with the same force and effect as though the witness had read and signed the same.

---oOo---

Thereupon,

REV. RODNEY HOWELL

was called as a witness on behalf of the Plaintiffs, and having been first duly sworn, testified as follows, to-wit:

EXAMINATION

By Mr. Korbel:

Q Rev. Howell, let me explain to you that there is a rule that says that after these things are taken you are supposed to read them and sign them before a Notary Public, but these guys do a pretty good job, and there is no reason to expect that they won't in this instance, and because of the time deadline, it is easier to just waive your signature.

A All right.

Q And if there are any grievous errors, I am sure Counsel can stipulate that "three" is "five", and vice-versa, but usually there is really no reason to sign them. We usually waive them in every case anyway.

A Fine.

MR. KORBEL: The record should show that the witness vaives the reading and signing of the deposition.

Q (By Mr. Korbel:) Will you state your full name for the record, please?

A My name is Father Rodney Howell.

Q Father, how old are you?

A I am 41 years old.

Q And what is your occupation?

A I am a Catholic Priest.

Q And do you have a Parish, Father Howell?

A I have a Parish in Shallowater, Texas. That is Lubbock County.

Q And would Shallowater, Texas, be involved in- the Lubbock County Multi-Member District?

A Yes, it would.

Q Just for the record, is Shallowater in the northwestern part or corner of Lubbock County?

A Yes, it is in the northwest part.

Q Quadrant, I suppose I should call it.

Okay, and besides your Parish, are you also involved in other matters?

A Yes, I am.

Q And can you describe those for us, please?

A I also operate a Government Program called E.S.A. Emergency School Assistance Act.

Q Now, that is E.S.A.?

A Right. A period after each letter, which is the abbreviation for Emergency School Assistance Act, and that the phase that we run and operate in Lubbock is a parental involvement phase.

Q Now, this would be in the entire county?

A It is in the Lubbock School District.

Q In the Lubbock Independent School District?

A Right.

Q Can you explain briefly what the Lubbock Independent School District entails?

A It entails the boundary lines of Lubbock, of the City of Lubbock.

Q I see. And that is generally what the Lubbock Independent School District is?

A Yes.

Q Go ahead, Father, I am sorry.

A And it --the sponsoring organization is LEARN, Inc. It doesn't have any significance other than the fact that it is to give an educational opportunity to minority students to further their education, and that

money is not any barrier to their education. They find loans, and grants, and --

Q This would be both at the primary and secondary level, or college level only?

A Primarily this is to get them to college.

Q I see.

A It works at trying to help, keep the Mexican-Americans, Blacks, minorities in school, and finish high school and go on to college.

Q So your program deals with both the Mexican-American and Black minorities, as well, is that right?

A Yes.

Q Okay. Father, do you have any particular training beyond your -- beyond your being ordained as a Catholic Priest? Have you taken any further school?.

A I have taken schooling in education. I have four years of education.

Q And have you taken any graduate study?

A I took some graduate study at Texas Tech.

Q I see. And was that just prior to your becoming involved in this LEARN Project?

A That's right.

Q How long have you been in Lubbock County?

A I have been in Lubbock County approximately seven

years.

Q Since 19...?

A Since 1967.

Q Since 1967. During that time I suppose you have had a close relationship with several of your parishioners as well as with the people you work with in this LEARN Program?

A That's right.

Q By the way, when did you get involved with the LEARN Program?

A The LEARN Program, about a year and a half ago.

Q I see. And the specific phase in which you are involved, can you tell me how that started, the genesis of that?

A When I attended the Texas Tech Mexican-American Counseling Institute --

Q Uh huh.

A -- there were students from all over the Southwest --

Q Uh huh.

A -- from the five Southern states where there are a number of Mexican-Americans --

Q Uh huh.

A -- and they put together -- we put together a

program of all of the successes of parental involvement in trying to help the parents become more involved in their children's education in working together with the school and the child, and furthering the education of the child. And it is also to prevent dropouts, and to get the parents more actively involved in the school system.

Q So your original study, and the program submission that you had, was based on the facts you knew to be existent in the Lubbock Independent School District, is that correct?

A Right.

Q Okay. Let me ask you a few questions about Lubbock Independent School District.

Do you know how many students there are now presently attending the Lubbock Independent School District?

A There are approximately 33,000.

Q In the Lubbock Independent School District.

A In the Lubbock Independent School District.

Q And what percentage of those students would be Mexican-American?

A I would say it would be pretty close to 25 per cent.

Q 25 per cent?

A About 8,300.

Q And how about Blacks?

A There are about 12 per cent, 4,000. That is a rough estimate.

Q Lets see, we have got those statements right here.

A Right.

MR. KORBEL: Off the record just a second.

(Off the record discussion.)

MR. KORBEL: Back on the record.

Q (By Mr. Korbel:) Do you know for sure whether or not the Lubbock Independent School District has ever enforced a no-Spanish rule, and punished children for speaking Spanish on the school grounds and in the class rooms?

A Yes, I do.

Q And is that rule still in force?

A No, it isn't.

Q When was the last time that was enforced, to your knowledge?

A By talking to the parents, it appears about '68

or '69.

Q I see. And that is what you find out from the people that you serve in your LEARN Organization, is that correct?

A Uh huh.

Q Okay. Does the Lubbock Independent School District have a bilingual education program?

A Yes, they do.

Q And do you know who the Director of the bilingual education program is?

A The Director is Doris Rector.

Q And does she speak Spanish?

A No, she doesn't.

Q I see. And prior to her becoming Director of the Bilingual Education Program, was she a teacher in the Lubbock Independent School District?

A Yes, she was.

Q Okay. So that her being Director of the Bilingual Education Program was simply a promotion for her, is that correct?

A A promotion, that's right.

Q Okay. Do you have any idea of the percentage of the dropouts, the percentage for Mexican-Americans in the Lubbock Independent School District?

A I could estimate from the figures that we have that it is approximately 25 per cent.

Q Okay. But, now, this estimate is based upon the figures and the forms and things which you have seen --

A Right.

Q -- which the Lubbock Independent School District has prepared, is that right?

A Yes.

Q And in the course of your dealing with Lubbock Independent School District, you have had opportunity to look at their figures, and at their records, and studies, and things?

A Right.

MS. LEVATINO: Excuse me, George. These figures are the ones you are talking about including in your exhibit?

MR. KORBEL: Yes, But I don't know if we have got figures as to dropout rates. Lets go off the record.

MS. LEVATINO: Okay.

(Off the record discussion.)

MR. KORBEL: Back on the record.

Q (By Mr. Korbel:) Okay. Can you compare that, for example, with the dropout rate for the Anglos? Is that considerably lower?

A It is considerably lower. I don't have the exact figures.

Q Do you know, for example, how many Mexican-American guaduates of the Lubbock Independent School District have ever graduated from Texas Tech located here in Lubbock?

A The figures that I have gotten were from -- through LEARN, --

Q Uh huh.

A -- our sponsoring agency, they operate a talent search program, and as close as we can figure it is about eight.

Q So, as far as you know, and from everything you can find out, only eight Mexican-American graduates from the Lubbock Independent School District have graduated from Texas Tech?

A Right.

Q To your knowledge, do a substantial number of Mexican-American graduates from Lubbock Independent School District go outside of Lubbock County, or outside of Texas Tech to go to school?

A Yes, they do.

Q And to your knowledge, about how many Mexican-American graduates of the Lubbock Independent School District have ever graduated from college?

A It would be a very small number.

Q What figure would that be?

A I would estimate about ten, I wouldn't --

Q Additional?

A Right.

Q So that there would be about eighteen Mexican-American graduates of Lubbock Independent School District that have graduated from college?

A Right. Approximately.

Q Okay. Do you know how many students there are in Texas Tech?

A There are about 21,000.

Q I see. And do you know how many of that are Mexican-Americans?

A No, I don't have the recent figures on that.

Q Do you have an idea what the percentage is?

A No, I really don't.

Q Okay. Would it be very large?

A It would be very small.

Q Okay.

I am sure it would be less than -- say less han 10 per cent.

Okay. Are there any Mexican-American Counelors in the Lubbock Independent School District?

I know of one.

I see. How long has he been a counselor?

I would say about two years.

Are there any Mexican-American Principals in e Lubbock Independent School District?

There is one.

And how many Principals are there total in e Lubbock Independent School District?

I would have to look at that. There are 53 hools.

Presumably there would be a principal for ch school?

Yes.

Okay. And do you know how many counselors, e total number of counselors there are in the bbock Independent School District?

No.

Would there be at least one counselor for h school?

I am sure there would be, yes, and some schools

have two or three.

Q Okay. Now, let me ask you some questions about discrimination, and I want you to base these on your experiences here in Lubbock County, and also the experiences that you have had in dealing with your parishioners and with the people you have dealt with in the LEARN Program.

When you came to Lubbock County, were you made aware of any discrimination in public facilities by your parishioners?

A Yes, they mentioned several different things.

Q Can you describe some of them for us?

A They mentioned barber shops they couldn't go to, they wouldn't cut Mexican-American's hair.

Q Where were these barber shops located?

A There were some in Lubbock. I am positive of one in Shallowater.

Q Uh huh.

A Up to two years ago.

Q The barber shop in Shallowater would not cut Mexican-American's hair until two years ago?

A Until two years ago. The barber died and the one that took over does.

Q Does cut Mexican-American's hair?

A Does, yes.

Q All right.

A Swimming facilities.

Q And where would those swimming facilities be located?

A Well, the one in Shallowater, up until two years ago, didn't accept Mexican-American swimmers, and the parishioners mentioned that in Lubbock they had different pools, like at Mac-Kenzie Park, which was probably the early '60's, I would estimate --

Uh huh.

-- that they were allowed to -- maybe the late '50's, that they were allowed to use.

To start using the pools?

Yes.

Were there any other pools in the county that prohibited Mexican-Americans from using them?

These are the only ones that I am aware of.

What about motion picture theaters?

Motion picture theaters, there were two of them. I don't have the names right off-hand, in Lubbock that they specifically mentioned --

Uh huh.

-- that they were not allowed in.

Q Okay. Would this be the Lindsey and the Clifton Theaters?

A The Lindsey and the Clifton, right.

Q And in what years were they still preventing Mexican-Americans from attending these theaters?

A I would say about the middle '60's.

Q I see. And that is what your parishioners were telling you?

A Yes.

Q I see. Lets see, now, are there any other incidences of discrimination which you would like to point to?

A I would like to say like in voting.

Q Uh huh.

A A lot of them are still under the impression they have to pay a poll tax.

Q Mexican-Americans still feel they have to pay a poll tax?

A There are several of them that still do, yes.

Q Uh huh.

A Some of the older ones.

Q Uh huh.

A And when they do, we finally get them to register and they receive their voting slip, I can say for sure in

Shallowater, if someone is not around, very often they will say: "Well, you can't vote because you don't have your slip."

Q How do you know this, Father?

A I have got the people themselves who told me.

And I went myself once without a slip and argued the point, and they allowed me to vote.

Q So they are preventing people from voting if they don't have their voter registration slips?

A Right.

Q Okay.

A And the other thing is having an interpreter at the polls.

Q Did they prevent people from the use of an Interpreter at the polls?

A Yes, they did.

Q Until when?

A Well, I would say even to the last election.

Q I see.

A When there was none provided, and I wasn't aware of it until I went to vote, and one of my parishioners asked me, you know, what is the slip on the ballot, and who are we voting for --

Q Uh huh.

A -- and I was trying to explain in a little Spanish, and they prevented me from doing it, so I asked for an interpreter, and they said: "Well, you should have asked for that a long time ago."

And so we got on the phone and we got an interpreter out at about 3:00 or 4:00 o'clock that evening, but by that time, most of them that were eligible, had voted.

Q I see. They weren't allowing people to use their own interpreters, right?

A That's right.

Q And there was no interpreter provided, is that my understanding?

A That's right. They used the reasoning that we were telling them how to vote.

Q I see.

A And the other instance that I am very aware of is the visiting days at the jail --

Q Uh huh.

A -- here in Lubbock, they have a separate visiting day for Mexican-Americans and Blacks --

Q Uh huh.

A -- and another day for the Whites.

Q Uh huh. And how about Mexican-Americans?

A Mexican-Americans and Blacks are together.

Q I see.

A On one day, and the Whites on another day.

Q I see. What about the use of racial and ethnic overtones in election campaigning? Do you find that in Lubbock County?

Do you know of any instances of that existing in Lubbock County?

A Yes, I know of one during the 1970 election with Paulina Jacovo.

Q And she is a Mexican-American?

A She is a Mexican-American. She ran for County Commissioner.

Q And she ran against ...?

A She ran against Alton Brazel.

Q In the run-off?

A She ran against several people before that that were opposing her in the primary, and she got to a run-off with Alton Brazel.

Q I see.

A And there was a pamphlet put out, which I couldn't find a copy of, that depicted her as the radical Mexican-American belinging to these organizations like Citizens for Social Justice, Los Tertullianos, Black-Brown Coalition,

in comparison to the highly educated Alton Brazel, who was in office at the time.

Q Uh huh.

MS. LEVATINO: Okay, we would object to that under the best evidence rule, that it is hearsay if he can't produce the pamphlet.

Q (By Mr. Korbel) All right. Go ahead.

Now, I would like to inquire about these organizations; are these organizations which are well known in Lubbock County as being for the advancement of Mexican-Americans and Blacks?

A Right, but I wouldn't -- can I point out something?

Q Yes, Go right ahead.

A That as a result of this bill, the voting record can show that Anglos showed up in the Shallowater Area, in particular that I am aware of, way over a hundred more than came out in the primary.

Q So there was an increase -- no, now, just so we can get this straight: Is it your testimony that his handbill, or brochure, was passed around after the primary and before the run-off?

A Right.

Q Okay. And is it further your testimony that to your knowledge in the Shallowater Precinct, which you are especially aware of --

A Yes.

Q -- that it increased the turnout?

A Yes.

Q And do you know what the vote was out there?

A It was about, pretty close to 600. A little over 500, I think.

Q To what?

A To 50, I think it was.

Q I see. Now -- and that was in the run-off?

A That was in the run-off.

In the first primary it was something like 400 to 47.

Q Okay. What is the Anglo-Spanish surname breakdown in the Shallowater area?

Do you have any idea what percentage the Mexican-American account for in the population?

A It is approximately 25 per cent.

Q I see.

A Registered voters?

Q Yes. Okay. How about registered voters, if you know that?

A I would say, about, roughly ten.

MR. KORBEL: Off the record.

[Off the record discussion.]

MR. KORBEL: Okay. Back on the record.

Q (By Mr. Korbel:) I want to identify some exhibits, some school exhibits. Lets have this marked and identified as Plaintiffs' Exhibit 1.

MS. LEVATINO: Excuse me. Off the record.

[Off the record discussion.]

MR. KORBEL: Back on the record. Okay. I will identify this as Plaintiffs' Exhibit 1, Howell Deposition, Lubbock County.

[Thereupon the document hereinabove
[described was identified as Howell
[Deposition, Plaintiffs' Exhibit No. 1,
[Lubbock County, and a copy of same is
[attached to this deposition.

Q (By Mr. Korbel) I am handing you now what has been identified as Plaintiffs' Exhibit 1, Howell Deposition, Lubbock County, can you identify what that is?

A Yes. This is the Ethnic Breakdown of Faculty Members --

Q Uh huh.

A -- and of the students by race.

Q In the Lubbock Independent School District?

A In the Lubbock Independent School District.

Q And what year is that for?

A This is October 5th, 1973.

MR. KORBEL: Okay. We will tender this Ethnic Breakdown of Faculty Members and School Enrollment for Lubbock Independent School District for 1973.

Q (By Mr. Korbel:) Okay. Returning once again to this brochure you were describing about Paulina Jacovo when she ran for County Commissioner. What year was that in?

A That was in 1970.

Q Okay. And just so the record is straight, that was distributed between the time she ran in the primary,

in the first primary, and then she ran in the second primary run-off election, right?

A That's right.

Q Do you generally know the areas of the county that that was distributed in?

A As far as I know, it was distributed outside the City of Lubbock.

Q I see. It would be in the rural areas?

A In the rural areas.

Q In the rural areas do the Mexican-Americans make up a small amount of the population?

A Yes, they would.

Q Okay. And did it appear to you that this was directed at the Anglo population in the rural areas?

A Yes, sir.

Q Okay. Do you have any reason to believe that? Did you talk to people, for example, that expressed that opinion to you?

A Well, none of our people received it, but I saw it.

Q Uh huh.

A I will say none of the Mexican-Americans in the Shallowater area received it.

Q I see. How was this distributed, do you know?

A I don't. I couldn't say for sure.

Q I see. Okay. Now, I want to get into another area.

Do you have any knowledge of the South Plains Area Council -- South Plains Area Association of Governments?

A Yes.

Q And can you tell me the Board of Directors on the South Plains Area Association of Governments?

How many minorities are members of the Board of Directors?

A There are no minority members.

Q There are no minority members.

A I think the total membership is 25 on the board.

Q I see. And has the fact that there are no minority members on the South Plains Area Association of Governments resulted in the loss of any federal funds to Lubbock County?

A It has.

Q Any specific programs?

A It has.

Q Can you mention some of those programs?

A We have to -- all government programs are going to have to go through South Plains Association of Governments, we were notified, within the coming year.

Q For their recommendation?

A For their recommendation and approval of the programs.

Q I see.

A And Jobs for Progress approached them.

Q Uh huh.

A And also the -- I can't recall the other one.

MR. KORBEL: I am going to have this identified as Plaintiffs' Exhibit 2, Howell Deposition, Lubbock County.

[Thereupon the instrument hereinafter [described was identified as Plaintiffs' [Exhibit 2, Howell Deposition, Lubbock [County, and same is attached to this [deposition.

Q (By Mr. Korbel:) I am going to hand you what has been identified as Plaintiffs' Exhibit 2, Howell Deposition, Lubbock County, and ask you to identify and describe that.

A This is a copy of an article that appeared in the Lubbock Avalanche Journal.

Q What is the date?

A October 9th, 1973.

Q And can you tell me the substance of that article?

A The substance is they wanted to increase their board membership --

Q Who wanted to increase board membership?

A Some members of SPAG --

Q Uh huh.

A -- wanted to increase the board membership to include minorities, to go from 25 to 34 members, with the additional members to be appointed from minority groups elected officials in the area, and they felt that --

Q Who is "they" now?

A The total board.

Q Uh huh.

A Felt that they would -- that this would be infringing on, or pushing too much --

Q Are you quoting from the article now?

A No.

Q Okay.

A -- towards the make-up of SPAG.

Q And because of the fact that they refused to increase the size of their board to include some minority members, not necessarily all minority members, but some at least, did Lubbock County lose a grant?

A Yes.

Q And what was that grant for?

A Economic Development and Administration.

Q Uh huh. And would that have benefitted the minorities, Mexican-Americans and Blacks in Lubbock County?

A Yes, it would have.

Q Okay.

MR. KORBEL: I would like the record also to reflect that the South Plains Area Association of Governments, on the same day they refused to increase the membership on their Board of Directors to include at least some minority members, gave favorable comment to a planned $288,800 improvement of the Cochran County Airport.

MS. LEVATINO: Are you offering this?

MR. KORBEL: Yeah, we offer that as P-2 Howell Deposition, Lubbock County.

MS. LEVATINO: We will object not to the admission of this as a newspaper article that appeared in the Lubbock Avalanche Journal, but object as to the hearsay contained therein.

MR. KORBEL: Okay. Off the record.

[Off the record discussion]

MR. KORBEL: Okay. Back on the record.

Q (By Mr. Korbel:) Have your parishioners reported to you, or have you had any knowledge of any other discrimination, for example in the employment situation in Lubbock County?

A Yes, we have.

Q And can you describe some of that for me, please?

A Lubbock Co-op Compress in 1965 and '6.

Q What is the Lubbock Co-op Compress?

A It is where they finalize the cotton bales, press them into bales.

Q I see.

A And it is a co-op made up of all the farmers over the area.

Q Where is it located?

A It is located in Lubbock, in the southeastern part of Lubbock on the old Slaton Highway.

Q Okay.

A And in '65 and '66 they went out on strike, they formed a union.

Q Now, who is "they"?

A The workers.

Q Uh huh. And are these workers --

A They are composed of about 97 per cent Mexican-American, or were at the time.

Q I see.

A And they went out on strike because of discrimination in the plant.

Q And what discrimination were they charging at that time, Father?

A Well, the job promotions, separate facilities for the restaurant, the Mexican-Americans and the Blacks were included.

Q For --

A Separate spots to eat, whereas they had a big restaurant inside for the Whites.

Q Uh huh.

A Bathroom facilities were outside for the minorities, and inside for the Whites.

The -- another point was --

Q Before you go on, now, is it my understanding that the Mexican-Americans and the White employees were not allowed to eat together?

A Right.

Q Okay. The Mexican-American and White employees were not allowed to use the same restroom facilities?

A Right.

Q Okay. Now, what other situations?

A On paid vacations --

Q Uh huh.

A -- the White employees were able to use company trucks and get a two week's paid vacation down by Mexico, and the Mexican-American and the Blacks got a day, for example, at this Buffalo Lakes --

Q Uh huh.

A -- or some place in this area.

Q What about salaries?

A Salaries? Their salaries were lower than the Anglo salaries.

Q I see.

A These were points that were found by the Equal Opportunity Employment Commission.

Q And your knowledge of these instances of discrimination, this is from your parishioners?

A From my parishioners that were working there.

Q And they have discussed that with you?

A That's right. And I went out several days with the strikers and talked to them.

Q And did you ever have occasion to talk to management at that time?

A No.

Q Okay. Other instances of job discrimination or discrimination in Lubbock County?

A The most recent was at Johnson Manufacturing in Lubbock, they make these big road machines, and they were on strike for about a year for discrimination and job promotion and pay scale. I think basically that is what it was, and the Equal Employment Opportunity Commission has found discrimination in all departments.

Q Uh huh.

A At that time there were no Mexican-Americans in the front office.

Q Uh huh.

A The only type of work that the Mexican-Americans were good at was welding.

Q Uh huh.

A And there were no foremen or supervisors at Johnson Manufacturing.

Q The EOC found probable cause, and then later found -- what? Go ahead?

A They found cause and they had to go in and litigate, I guess you would call it, the matter.

Q And what was the final conclusion on that?

A It is not concluded yet.

Q I see.

MR. KORBEL: I am going to have this identified as Exhibit P-3, Howell Deposition, Lubbock County.

[Thereupon the instrument hereinafter [described was identified as Plaintiffs' [Exhibit No. 3, Howell Deposition, Lub- [bock County, and a copy of same is [attached to this deposition.

Q (By Mr. Korbel:) I am going to show you what has been identified as Plaintiffs' Exhibit 3, Howell Deposition, Lubbock County, and ask you to identify this.

A Okay. This is a copy of the Equal Employment Opportunity Commission's findings --

Q Uh huh.

A -- and determination.

Q Probable cause?

A Right.

Q All right.

A This is the first time, I think, it was allowed to be given as a group. I think the Equal Employment Opportunity Commission has to give individual allegations,

whereas this was a -- on the compress, and what not, but here it is a group allegation.

Q I see.

MS. LEVATINO: No objection.

Q (By Mr. Korbel:) Okay. Do you have any knowledge of discrimination in public accommodations in housing, lets say, in Lubbock County?

Recent discrimination, now?

A Yes. Some of my parishioners were telling me they were going to move to Lubbock.

Q Uh huh.

A And, for example, the other day they called on the phone -- within the past few weeks --

Q Uh huh.

A -- and they asked, where they knew there were rentals available, and the parishioners told me they had phoned this place in Lubbock and asked if they had rental housing available, and they said yes, and just come down, and what is your name; and as soon as they said a Spanish surname, they said: "Well, we are sorry, we have somebody with a deposit waiting to put it on the house right now."

MS. LEVATINO: We will object to the hearsay on that.

MR. KORBEL: Okay.

A All Right. In Shallowater --

Q (By Mr. Korbel:) Go ahead.

A -- and I can speak specifically to Shallowater because I live there, and not only do the tenants -- I mean the ones that own the house tell me this, but the parishioners also tell me, and there is also --

Q Can you describe the instance in Shallowater?

A There are certain houses which are unavailable for Mexican-Americans.

Q I see. And how do you know they are unavailable for Mexican-Americans?

A I have heard it directly from the owners of the house, as well as one of the parishioners.

Q What did they say about the house?

A They said that they wanted to rent it to Anglos.

Q Only to Anglos?

A Right.

Q Would it be available for Blacks, or do you know?

A I don't think so.

Q But you don't know that?

A No, I am sorry. No, I don't know that.

Q Okay. Generally in Lubbock County, does the county have a reputation of having problems for Mexican-Americans finding public accomodations and housing, lets say?

A It depends on the area, really.

Q Uh huh.

A You know, if it is in a, what we would call a barrio area, housing would be fairly plentiful.

Q Uh huh.

A Whereas if you get into the other areas, it would be more difficult to find one.

Q Okay. I want to go into something about the schools in Shallowater, you probably are very familiar with them.

Have you encountered any institutional problems that the Mexican-Americans face in Shallowater?

For example, I want to direct your attention to -- we find, throughout the State of Texas, some problems in the EMR classes, or --

A Yes.

Q -- Education of Mentally Retarded Classes.

A Right.

Q Have you found any problems in those?

A Up until about two years ago, there was two types of mental retardation classes in Shallowater.

Q Yes.

A And there was the MBI, the Minimal Brain Injury, and the EMR, Educable Mentally Retarded --

Q Uh huh.

A -- and the school's principal, as well as the school nurse, told me that the national ratio is ten per cent that should be in Special Ed, and out of these in the MBI class, Minimal Brain Injury, after two years they have an opportunity to go back to their regular class.

There were approximately twenty or twenty-two Anglos and one Mexican-American and one Black at the time in that. And in the Mentally Educable -- in the Educable Mentally Retarded, that means they are marked for the rest of their school time where they will be in mentally retarded classes, there were about twenty or twenty-two Mexican-Americans and one Anglo.

Q I see. Were there any Black?

A One Black.

Q One Black in that class.

Did the school nurse explain to you why there was such a high number of Mexican-Americans in that class,

or did she attempt to explain?

A She did. She sent me an article one day pertaining to the average development of the brain, and how the Mexican-Americans have malnutrition and don't have the proper food and diet, and as a result their brain is about three-quarters of normal size.

MS. LEVATINO: I --

MR. KORBEL: Off the record?

MS. LEVATINO: Yes.

[Off the record discussion.]

MR. KORBEL: Back on the record.

Q (By Mr. Korbel:) So there is no question as to the record, did the nurse tell you this, or did she send you the article, or did she do both?

A She did both.

Q I see.

A I would like to bring out a point.

Q Yes.

A That this was all brought to a head with a meeting that we had at the school --

Q Uh huh.

A -- with a meeting with the principal, the school nurse, the superintendent, doctors from Lubbock, and the Consul.

Q Now, this got to be sort of a celebrated cause in Shallowater, the number of Mexican-Americans --

A Right.

Q -- in the Educable Mentally Retarded Class?

A Right.

Q Go ahead, please.

A And in this meeting it was pointed out that it is something for the Mexican-Americans and for their benefit, and they shouldn't fight it, that they should allow their children to be in Special Education.

Q So they were saying that placing children in the EMR Classes was beneficial to the children, is that right?

A Right.

Q And at that time did she again explain that Mexican-Americans had inferiorally developed, or inferior size brains?

A Yes. And as a result of this, we had a -- we operated a tutoring class right across from the school on the church grounds, and we got Texas Tech Mexican-American

Students in the Counseling Department to assist these students after school every day.

Q Uh huh.

A And we took one child, for example, out of this EMR Class, and they put her in the regular fourth grade -- she was in the EMR Class for four years, and the school kept telling her how it is harmful to her and she is harming the other children in the class --

MS. LEVATINO: We will object to that.

Q (By Mr. Korbel:) That is all right. Go ahead. Go ahead.

A -- and she is doing well now in the regular class.

Q Okay. Just so there is no question in the record, when this became sort of a celebrated cause out in Shallowater, why you took it upon yourself, as the Pastor of the Parish out there, to prove that Mexican-Americans didn't have inferior-ally brains?

A Right.

Q Okay. So you got some volunteer help from Texas Tech, and you took one of those students and demonstrated that all she needed was a little help

A We had 125 students total

in the tutoring program,

but we put more emphasis on a couple of these students that were in these EMR Classes.

Q So it was actually from more students than just the --

A Right.

Q -- ones that were in the program?

A Yes.

Q But you were able, with some tutoring, to take one of these children -- at least one of these children out of the EMR Classes --

A Right.

Q -- and put in the regular class.

Since then has the use of the EMR Classes changed in Shallowater?

A It has changed considerably to the point that now they only allow them to go in for what they term -- what do they call it now? It is not Special Ed any more, it is Advanced Learning, or Concentrated Learning Classes, that is what it is.

Q And is there a graduation from those classes into regular classrooms?

A Yes, they only spend 20 per cent of their day in these classes, and the rest of their time is with regular students.

Q Do you attribute the fact that there were a large number of Mexican-Americans in these EMR Classes to any specific thing?

A Basically it was the language barrier, communication.

Q I see. At this time in the Shallowater School District, do any of the teachers speak Spanish?

A No.

Q And I trust the superintendent or the principal doesn't speak Spanish either?

A No.

Q How about the counselors?

A The counselor did not.

Q How about the people who are administering the tests to these children and putting them in the EMR Classes?

A No, none of them spoke Spanish.

Q Generally, did the same thing go on in the Lubbock Independent School District? Were there problems with the EMR Classes in the Lubbock Independent School District also?

A As far as I know, yes.

Q You don't know as many specifics about this as you do about the Shallowater Schools?

A That's right. I know of individual cases, but I couldn't say.

Q Generally, do you know how many Mexican-American

Students are in the EMR Classes in the Lubbock Independent School District?

A No.

Q All right. I am now going to show you what I would like to have identified as P-4, Howell Deposition, Lubbock.

[Thereupon the instrument hereinafter
[described was identified as Plaintiffs'
[Exhibit No. 4, Howell Deposition,
[Lubbock County, and same was retained by
[Counsel for Plaintiffs, and does not
[appear herein.

Q (By Mr. Korbel:) And I will ask you to identify it.

Are you familiar with this document?

A Yes.

Q And can you describe what that is?

A It is A History of the Mexican-Americans in Lubbock County, written by Andrew A. Tijerina for his degree.

Q And was that submitted in partial fulfillment of the requisites for the Degree of Master of Arts?

A That's right.

Q Printed at Texas Tech University?

A In August of '73.

Q And are you familiar with Andrew Tijerina?

A Yes. I have met him on several occasions. He has discussed some of the points.

Q During the preparation of this thesis, did he discuss with you some of the matters that are contained in it?

A Yes, he did.

Q And did you give him some suggestions, and did he take some ideas from you for that?

A Yes.

Q Okay. Can you describe generally what this thesis contains, and what it is?

A It is basically a history of the movement of the Mexican-Americans to the Lubbock Area, primarily --

Q Uh huh.

A -- or lets say, to Texas.

Q Uh huh.

A And the history of their segregation.

Q This is sort of a history of Mexican-Americans in Lubbock County, is that right?

A Yes, bringing out some points that --

Q Okay.

MR. KORBEL: We would like to offer Plaintiffs' Exhibit P-4, Howell Deposition, Lubbock County,

into evidence at this time.

MS. LEVATINO: We do not object to the offering of this in so far as it is a thesis done by Mr. Tijerina; however, we will reserve objections as to any conclusions that are in here.

MR. KORBEL: Fine.

MS. LEVATINO: We talked about this.

MR. KORBEL: Yeah. Okay. Lets go off the record.

MS. LEVATINO: Can we go off the record?

MR. KORBEL: Yeah.

[Off the record discussion.]

MR. KORBEL: Back on the record.

It is stipulated, then, that copies of this will be made and furnished to Counsel.

Q (By Mr. Korbel:) Okay. Now, your testimony is generally about some instances of discrimination and problems that Mexican-Americans have faced in Lubbock County since the late '50's and middle '60's, and on through almost 1970.

Would it be fair to say that this chronicles instances of discrimination against Mexican-Americans prior to that time, or should I say including prior to that time?

A It goes to about 1971, I think.

Q I see.

MR. KORBEL: And when I say "this," I am referring to Plaintiffs' Exhibit P-4, Howell Deposition, Lubbock County.

Now, I am going to show you what is going to be identified as Plaintiffs' Exhibit P-5, Howell Deposition, Lubbock County, and ask the Reporter to identify it.

[Thereupon the instrument hereinafter [described was identified as Plaintiffs' [Exhibit No. 5, Howell Deposition, [Lubbock County, which was retained by [Plaintiffs' Counsel, and therefore a copy [of same does not appear in this [deposition.

Q (By Mr. Korbel:) Are you familiar with this thesis -- well, first of all, will you describe it, please?

I am sorry.

A This is a thesis by Lynn Ray Musslewhite, A Thesis

In History for the Degree of Master of Arts, written in 1969, which shows the development of the public school system in Lubbock from 1891 to 1941.

Q And are you generally familiar with the -- or do you have some recollection, at least, of the contents of that thesis?

A Right.

Q And is that what it does contain, is sort of a history of the Lubbock Independent School District?

A Yes, it is primarily historical.

Q Uh huh.

MR. KORBEL: Off the record.

[Off the record discussion.]

MS. LEVATINO: Back on the record.

I will offer the same objection to this, and we can also stipulate to the same reproduction agreement.

MR. KORBEL: Fine. We will reproduce it for you.

MS. LEVATINO: I don't want to look through it at this time.

MR. KORBEL: Okay.

Q (By Mr. Korbel:) Do you have some -- can you comment on the current Mexican-American and Black parental involvement in the schooling in Lubbock County?

What is the degree of the parental involvement, and the help they are able to give their children?

A It is very low, primarily for the Mexican-American and Blacks --

Q Uh huh.

A -- as far as participation in any type of school PTA's, and education of their children in the schools.

Q Now, why is that?

A Basically I think that the Mexican-American parent, or Black parent, feels like when education starts, that they are teaching the child up until the time they enter school, and their education burden rests completely on the school.

Q Uh huh. And are there any other reasons that you can think of that would lead to this small parental involvement?

A Well, lack of education on the part of the parent. They feel because they don't have the education, they can't speak to the teachers in the school in the proper

fashion. It would be the language barrier.

Q They feel hesitant to approach the teachers because they are unsure of their ability in the English Language, is that right?

A Yes.

Q And do many of the parishioners and many of the people you work with have problems speaking English?

A Yes, they do.

Q All right. It is not because -- it is not because they are not interested in their children that they seem to have a small parental involvement, or a small parental interest in the education of their children?

A No, not that.

Q Okay. Well, is it, or isn't it? Is it because they are not interested?

A Oh, no.

Q Okay. Now, Father Howell, where were you born and educated?

A I was born and educated in New Orleans, Louisiana.

Q And are you generally familiar with the condition of the plight of the Blacks in Louisiana?

A Yes, fairly well.

Q And how long did you live in Louisiana before you left?

A I lived in Louisiana until I was about 30 years old.

Q And did you attend the seminary in Louisiana?

A I attended the seminary in Alexandria, Louisiana.

Q And is that far from -- off the record for a minute.

[Off the record discussion.]

MR. KORBEL: Okay. Back on the record.

Q (By Mr. Korbel:) How far is Alexandria, Louisiana, from East Carroll Parish?

A I would say it is about 50 or 75 miles.

Q Are you generally familiar with East Carroll Parish?

A Yes, fairly.

Q And during the time that you were in the seminary, and while you were growing up in Lubbock County, you had occasion to -- in East Carroll Parish, I should say, you had occasion to observe the condition of the Blacks in that Parish, you testified to that.

Can you compare the condition of the Blacks in East Carroll Parish with the conditions of the minorities,

the Mexican-Americans and Blacks, in Lubbock County?

MS. LEVATINO: We will object to that question as not relative to this case in any way.

MR. KORBEL: Do you want me to rephrase the question?

MS. LEVATINO: If you want to. We will try again.

Q (By Mr. Korbel:) Can you compare the conditions of the minority -- the political, social and economic condition of the minority in East Carroll Parish with the political, social and economic conditions of the Mexican-American and Black minorities in Lubbock County?

MS. LEVATINO: We still object to it not being relative.

MR. KORBEL: Yeah. Okay.

Q (By Mr. Korbel:) Go ahead and answer.

A Okay. Yes, up until about ten years ago, or eight years ago.

Q And what can I say? I want to compare East Carroll Parish ten years ago with Lubbock County today.

A Okay. I would say that the -- primarily the Mexican-Americans are at a disadvantage because of language barrier and lack of political structure, in a sense, you could say, in comparison to the Blacks in the East Carroll Parish in Louisiana, in that they were forming their political structure at that time and getting out the vote, they were beginning it.

Q At the very beginning?

A Right, the very beginnings of it.

Q Okay.

A And we haven't reached that stage of political grouping.

MR. KORBEL: I guess that is all the questions I have.

EXAMINATION

By Ms. Levatino:

Q Rev. Howell, what order of the ministry -- I mean besides Catholic, what order of priest are you?

A Secular Priest, work in a parish.

Q Work in a parish?

A Yes.

Q And were you in any other parishes prior to leaving Louisiana and coming to Shallowater?

A No, I began as Priest here.

Q So you have been here for your entire religious career?

A Right.

Q Or vocation.

I would like to ask you just a couple of questions. I am sure you are aware that this case is concerned with the need, or the requirement of a single member legislative redistricting system, as opposed to a multi-member, in Lubbock County.

A Yes.

Q Is Shallowater, the place that you have mentioned which is your home here, in the multi-member district?

A Yes.

Q Of Lubbock County?

A Yes.

Q Are you familiar with the legislative members of that -- for the House of Representatives, of that delegation?

A Yes.

Q Mr. Tarbox?

A Yes.

Q And Mr. McAlister?

A Right.

Q Okay. You mentioned in your prior testimony that you had -- that the people in your parish do come to you for a variety of advice and consultation, school problems?

A That's right.

Q Okay. Do they come to you with regard to issues that may be considered political issues, more than just problems they encountered in the actual voting process that you have testified to earlier?

A Could you clarify that a little bit more, please?

Q Okay. Do they come to you asking you about, for example, candidates, or races, or questions that would be considered political questions, other than that particular instance you were talking about with their trouble at the voting box?

A Right. Yes.

Q Questions as to how to register and vote --

A Right.

Q -- this kind of thing?

A Right.

Q So, in other words, you really do attempt to help

them in all these areas?

A Yes.

Q Are you familiar, or were you aware of any issues before the Texas Legislature in this last session which would be of particular interest to Mexican-Americans in this area?

A Pertaining to bills introduced?

Q Right.

A Bilingual education.

Q Okay.

A Fair housing.

Q Okay.

A Along that line.

Q Did you personally contact any member of the legislative delegation with regard to these issues, recommending a certain course of action?

A No.

Q Did you recommend to any of your parishioners that they attempt to do so, or assist them in doing so?

A Yes.

Q You did?

A Yes.

Q All right. Are you aware of how your delegation voted on the -- how the Lubbock Delegation voted on the

bilingual bill?

A Yes.

Q And would you tell the Court how they voted?

A Yeah, they voted in favor of the bilingual bill.

Q Okay.

A But my interest -- if I can insert this?

Q Certainly.

A Is not not necessarily the voting record, it is how a representative of ours stands up and introduces a bill into legislation, which is beneficial to the people, and that is what we look for.

Sure, we can write in and we can say: "Vote in favor of this bill." But as far as the representatives that we have introducing any particular bill, like they didn't introduce the bilingual education bill. They didn't introduce the fair housing bill. These are the type of things that we look for in our representatives in the area.

Q Okay. Have you ever, or has anyone ever discussed with you some of the procedures with regard to the House of Representatives in terms of co-signing bills, and in terms of one member offering, for a number of years, carrying certain kinds of legislation, and rather than a duplicative amount of bills being introduced on the same subject, that

they get the agreement of other members to assist them?

A Right.

Q And in voting?

A Yes.

Q And would you say -- pardon me, are you familiar with Carlos Truan, Representative Truan from Corpus Christi?

A I know his voting record fairly well.

Q Okay. Are you aware that the bilingual education legislation has -- that that particular type of legislation has been introduced by him over a number of sessions?

A Right.

Q You are aware of that?

A Yes.

MR. KORBEL: Lets clear up what we mean by "a number of sessions." He hasn't been in the legislature too many years.

MS. LEVATINO: Well, he has introduced that bill for the last two sessions.

MR. KORBEL: Well, for the last two sessions. I think he was elected in 1968.

THE WITNESS: Can I --

MR. KORBEL: Off the record.

[Off the record discussion.]

MS. LEVATINO: Back on the record.

Q (By Ms. Levatino:) What other issues; you mentioned fair housing legislation, and that did not come to a vote in the legislature, is that correct, this last time?

A As far as I know, no.

Q Okay. What other issues in the legislature -- or that would be within the purview of a state legislature to deal with, would you consider of significance to the Mexican-Americans in Lubbock County?

A I think one of the primary things that would help out, and we have expressed our opinion in several letters, is the type of bill that would aid the farm laborers, for example. They are the only ones excluded from minimum wage right now, except for a thirteen week period -- I am sorry, they are allowed to work 500 man hours per quarter, in a thirteen week period, which excluded them from minimum wage; at any wage possible.

This is the type of bills that we are looking for to help raise the standards of farm laborers, for example.

Q Okay. Now, you say you have expressed this feeling

to your legislative delegation, is that correct?

A Yes.

Q Have you received any response from them?

A I personally haven't, excuse me on that, but we have pushed it through the people.

Q Okay. Has the organization, or the people that did express this feeling to the legislature, have they received any response from them, to your knowledge?

A They have received a type of response, but I couldn't really spell it out exactly.

Q Okay. Turning to a couple of other questions or areas here, are you familiar with the percentage of Mexican-Americans, or Spanish surnamed population in Lubbock County, in this district, or in either of the legislative districts in Lubbock County?

MR. KORBEL: We will stipulate that the percentages according to census would be approximately -- of the preceding census would be the approximate percentages in Lubbock County.

MS. LEVATINO: All right. Are you planning to --

MR. KORBEL: We will introduce an exhibit

which will set that all out. If you want to go into it now, I can put it into the record.

Q (By Ms. Levatino:) Well, do you have an idea, sort of a ballpark kind of figure?

A I would say roughly twenty to twenty-five per cent.

Q Okay. You can put it in later.

MR. KORBEL: Okay.

A Yeah, 24.7.

Q All right. About 25 per cent.

Now, you mentioned in Shallowater that the voter registration, however, is much lower than that?

A Right.

Q Are you aware of what it will be in the remainder of the county?

A It would be approximately twenty-five per cent, I would imagine.

Q Okay. In Shallowater, are you aware of any movement within the county to register more Mexican-Americans to vote?

A Yes, we have run several campaigns.

Q Okay. Approximately how many Mexican-Americans -- or pardon me, what is the population of Shallowater?

A Well, of the city itself -- now, when I talk about Shallowater, I talk about the outlying areas also, the school district.

Q Uh huh.

A The city population is about 1,400.

Q Okay.

A The total population would be, I would have to take a rough guess of about 4,000.

MR. KORBEL: Off the record.

[Off the record discussion.]

MS. LEVATINO: Back on the record.

Q (By Ms. Levatino:) In the race that we discussed earlier of Paulina Jacovo, you said that in the first primary, there were approximately -- the vote was approximately 500 to 50 in Shallowater?

A In the first primary it would be about 408 to 47.

Q Okay. 47.

A Yes.

Q And the 47 were for...?

A Ms. Jacovo, primarily.

Q Ms. Jacovo. Okay. And then in the run-off it was 500?

A It was over 500.

Q To 50?

A To 50.

Q All right. Do the ballots, or is there any way in those kinds of elections that you can -- let me ask you this:

How many voting precincts are there in Shallowater?

A There is one.

Q Okay. Is there any way that the ethnic breakdown of how those people voted can be determined from that one voting precinct?

A No.

Q Okay. You would estimate that the -- or you did testify to the fact that the increase of voters were white voters, is that correct?

A Right.

Q All right. That is your opinion?

A That is because of the amount of registered voters that we have among Mexican-Americans. There is about 88 registered voters.

Q Mexican-Americans?

A Right.

Q Okay. And of those, approximately half --

A About half of them.

Q Okay. The South Plains Area Association of Governments, turning to that group for a moment; how are members of that association now -- how do you become a member of that group?

A It is made up of all of the elective offices in the area.

Q So every single elected officer in the area is on it?

A No. No, I imagine they elect them for that, I am not really positive.

MR. KORBEL: Lets go off the record.

[Off the record discussion.]

MS. LEVATINO: Back on the record.

Q (By Ms. Levatino:) Father, since you have been in Shallowater in your parish there, have any of the candidates for the legislature campaigned in that area for the support of people in that area?

A I can't say that they have, no.

Q Okay. Either personally or by a direct mail type thing?

A A mail type thing, yes.

Q A mail thing?

A Yes.

Q And I assume, or is it correct that Shallowater, any media in which advertising or campaigning is done in Lubbock, would reach the Shallowater area?

A Yes, the Lubbock Avalanche Journal.

Q And in the newspaper?

A Yes.

Q All right. Have any of the -- of your parishioners and the Mexican-Americans you have dealt with expressed any desire to either run for the Texas Legislative Seats, or inquired as to a possibility of thinking along those lines?

A No.

Q Okay. Are there any -- or would you list, if there are any politically active or oriented Mexican-American groups within Shallowater or Lubbock which you are familiar with?

A Yes, there is LULAC, GI FORUM, they don't put a label of political, but when they talk about political, I am talking about voter registration; if you want to make that

political.

Q Okay. Do either of these two, LULAC, or GI FORUM, endorse candidates, or make up any kind of literature in Spanish, or in American -- in English, cut that; make up any written material, either in Spanish or in English with regard to the qualifications or endorsement of some candidates?

A I don't know of any.

Q You don't know of any?

A No.

Q Do you know if LULAC or GI Forum, in anyway, attempts to solicit any members of the minority group, or any White person, to run for office?

A No.

Q Okay. Are you aware of any political group in Lubbock County which is not of Mexican-American general membership, which is involved in either slating candidates, endorsing candidates, or soliciting candidates to run for legislative offices?

A I would say League of Women Voters, they are primarily concerned with registering, but I think, if I am not mistaken, at one time they supported a candidate.

Q So would it be fair to generally say that in Lubbock County, the candidates, the people that run, make

that decision on their own, as opposed to seeking the support of an identifiable group prior to becoming a candidate?

A Right.

Q Okay. Thank you. Let me ask you just one final question:

In your opinion, the problems that are involved specifically with the school treatment of Mexican-Americans, the lack of Spanish speaking instructors and counselors, and so forth, that you have brought out before, the prior incidents of discrimination which you have mentioned with regard to barber shops, swimming pools, theaters and voting; would you characterize many of these problems as ones which would be on a local level in terms of Lubbock and the feeling of this community that gives rise to these particular problems?

MR. KORBEL: Do you understand the question?

A Yes, but I am trying to think of -- you mean as far as I can judge from other areas, is it a local situation?

Q I am saying is the feeling of the Lubbock Community, either perpetuating or forming the problem in this area, as opposed to another area that you are familiar

with?

A I would say the Lubbock Area, yes.

Q All right.

MR. KORBEL: Off the record.

[Off the record discussion.]

MS. LEVATINO: Back on the record.

A I can't testify for other areas, now

Q All right.

A I am just saying for the Lubbock area.

Q I realize that. But it is a feeling it is in this area?

A Right.

MR. KORBEL: Just so there is no question on the record, are you asking him is Lubbock a racist community? Is that the question you are asking?

MS. LEVATINO: No, that is not really -- I see how you are getting to that, but --

MR. KORBEL: Is that the question you

are answering?

MS. LEVATINO: I am asking -- what I am asking is are there problems, or feelings within this community in prior things of discrimination and activities that have gone on; were those the things that led -- or that he thinks are the problem. I mean I don't know if you want -- you, on redirect, may want to ask something.

MR. KORBEL: Okay. Fine. Off the record.

[Off the record discussion.]

MS. LEVATINO: Back on the record.

Q (By Ms. Levatino:) You testified earlier, Father, that there were certain areas of Lubbock in which there would be a concentration of Mexican-American housing, and so forth. Lubbock is approximately 25 per cent Mexican-American?

A Uh huh.

Q Do you think that a Mexican-American, without the support of the Anglo, some support of the Anglo Community, even in a single member district could win a legislative race, given these percentages?

A It depends on how the boundary line is drawn.

Q In other words, are you saying that you could draw a district in which a Mexican-American could be guaranteed of being elected to the State Legislature?

A I would say you would need some Anglo support regardless of how you drew it.

Q Okay.

MR. KORBEL: I am going to object here, and maybe you can rephrase the question. Lets get "guaranteed" out of there. I think that is a -- that is a confusing term to me.

MS. LEVATINO: Would make it --

MR. KORBEL: Possible.

Q (By Ms. Levatino:) Would make it highly possible and perhaps probable that a Mexican-American would be elected.

A I would say possible, I don't know about probable, how probable it would be.

Q Okay. Father, are you familiar with any Mexican-Americans that presently hold elective office here in Lubbock?

A No.

Q There are now none on the school board, or any

of the other --

A No.

Q Are you familiar with any Mexican-Americans that have previously held elective offices?

A Not that have held, no. That have run.

Q In other words, it is your testimony that no Mexican-American has held elective office in Lubbock County --

MR. KORBEL: We will stipulate that since Reconstruction, a Mexican-American has never been successful in holding a political office in Lubbock County, any elective office, with the exception of a certain small number which we will have on an exhibit that we will offer.

MS. LEVATINO: Okay.

Q (By Ms. Levatino:) Are you familiar with any Blacks that have held any elective offices in Lubbock County?

A Yes.

Q And would you state them?

A Joan Irving is now a member of the school board. That is the only one I am familiar with.

Q Are you familiar with any Blacks that have held elective political office in Lubbock County prior to this, that are not in office now, but that have been?

A No.

MS. LEVATINO: I think those are the only questions I have.

MR. KORBEL: I have got a couple of questions.

FURTHER EXAMINATION

By Mr. Korbel:

Q Do you feel, Father, that Lubbock is a racist community, and that this racist sentiment adversely affects Mexican-American possibility of participation in politics?

A Yes, definitely.

Q And do you feel that the -- well, is this racism, is this an Anglo racism, is that what we are talking about?

A Right.

Q And do you feel that this affects Mexican-American chances for election to political office?

A Yes.

Q Do you feel that the election returns in the few races that Mexican-Americans have been able to run in reflects racial patterns of voting?

A Yes.

Q The Anglos voting very heavily for the Anglos and against the Spanish Surnamed individuals?

A Yes.

MS. LEVATINO: Are you going to introduce any of those voting records?

MR. KORBEL: Yeah. Off the record.

[Off the record discussion.]

MR. KORBEL: Back on the record.

Q (By Mr. Korbel:) Lets go back, Father, are you generally familiar with Mexican-American candidates who have run for political office in Texas, in Lubbock County, I should say?

A In Lubbock County, yes.

Q And would one of those be the Paulina Jacovo race?

A Yes.

Q And are you generally familiar with the precinct by precinct breakdown of the votes in that race?

A Fairly well.

Q All right.

A I couldn't quote them exactly.

Q This morning did I show you a copy of what I claim to be the precinct by precinct breakdown, and did you inspect that?

A Right.

Q And would you say, on the basis of that, and on the basis of your general knowledge of that precinct, that the Anglos were voting against Paulina Jacovo?

A Yes.

Q Okay. And in the Anglo precincts, did her -- strike that.

We are talking about drawing a district in Lubbock County; where Mexican-Americans and Blacks make up only about -- according to census, only about 34 -- strike that. Only about 24.70 per cent of the population, that is the Mexican-Americans and the Blacks together, the Blacks being 7.4, and the Mexican Americans being 17.33.

Do those Mexican-Americans and Blacks, for the most part, live in a very concentrated area?

A Yes.

Q And would you say that, oh, 80 per cent of the Mexican-Americans and Blacks would live in a general area?

A I would say a good 80 per cent, yes.

Q Okay. And so if a line were drawn which included most of the Mexican-Americans and Blacks in one district, would you then say that a Mexican-American or Black would at least have a shot at the legislature?

A Yes.

Q He would at least have a chance?

A Very definitely.

Q Okay. And why would that be?

A Because of the concentrated voting of the minorities in that area.

Q Of course, they wouldn't be fifty per cent, again, though, you know.

A No, they wouldn't, but there are a certain amount of Anglos that vote for minorities.

Q That would be open minded and would vote?

A That would be open minded and vote for them.

Q Okay.

A A few.

Q All right.

MR. KORBEL: I don't think I have anything

further.

MS. LEVATINO: That is all.

MR. KORBEL: Thanks a lot, Father.

[Deposition Concluded.]

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EXHIBIT 1, HOWELL DEPOSITION, LUBBOCK COUNTY OMITTED BY AGREEMENT OF PARTIES. FORMERLY PAGES 1878 THROUGH 1880

EXHIBIT 2, HOWELL DEPOSITION, LUBBOCK COUNTY

FEDERAL GUIDELINES REFUSED BY SPAG

Directors of the South Plans Association of Governments Tuesday refused to change the makeup of their board to fit federal requirements for a regional economic development district.

Economic development districts are a federally-funded attempt to aid economically depressed area. A six-county district already exists and the federal and state governments want it expanded to cover the entire region.

However, federal guidelines require that minority ethnic groups be represented on the district's governing board, and it was proposed that the 25-member SPAG board be enlarged to 34 members, with the additional members appointed from among minority group elected officials in the area.

SPAG board members are now elected by member governments and the directors rejected this proposal in part because it would mean, as Lubbock County Commissioner Arch Lamb put it, "this board telling local governments who to send ot this board."

The change was also rejected because the Economic Development Administration may not exist after next June when its present funding expires.

Lubbock City Councilwoman Carolyn Jordan questioned "making such a drastic change in our bylaws to fit a program which might not be in existence this time next year."

EDA representative Leon Whitney told the board that a regional district could still be set up independent of SPAG, but SPAG President Giles McCrary pointed out that some of its activities might be in competiton with SPAG.

In other business, the board authorized the staff to pursue with state officials the possibility of the state funding a $10,000 study of the region's various drug abuse control programs.

Several directors expressed the desire that more emphasis be placed on drug law enforcement, especially through undercover police work.

The board also gave a favorable comment to a planned $288,800 improvement of the of the Cochran County airport.

EXHIBIT 3, HOWELL DEPOSITION, LUBBOCK COUNTY, OMITTED BY AGREEMENT OF PARTIES, FORMERLY PAGES 1882 THROUGH 1883

THE STATE OF TEXAS]
]
]
COUNTY OF LAMB]

I, BOBBY G. ROGERS, Certified Shorthand Reporter in and for the State of Texas, do hereby certify that the facts stated by me in the caption hereof are true, and that the said witness did make the above and foregoing answers in response to questions propounded as shown, and that I did, in shorthand, report said proceedings, and that the above and foregoing typewritten pages contain a full, true and correct transcription of my shorthand notes taken on said occasion.

WITNESS MY OFFICIAL HAND, this the 25th day of November, A.D. 1973.

Certified Shorthand Reporter.

---oOo---

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF TEXAS
AUSTIN DIVISION

CURTIS GRAVES, ET AL, VS. BEN BARNES, ET AL	NO. A-71-CA-142
DIANA REGESTER, ET AL, VS. BOB BULLOCK, ET AL	NO. A-71-CA-143
JOHNNY MARRIOTT, ET AL, VS. PRESTON SMITH, ET AL	NO. A-71-CA-144
VAN HENRY ARCHER, ET AL, VS. PRESTON SMITH, ET AL,	NO. A-71-CA-145
FRANK ESCALANTE, ET AL, VS. MARK WHITE, ET AL,	NO. A-73-CA-115
JAMES GASKIN, ET AL, VS. MARK W. WHITE, ET AL,	NO. A-73-CA-146
WANDA L. CHAPMAN, ET AL, VS. MARK W. WHITE, JR., ET AL	NO. A-73-CA-155

ORAL DEPOSITION OF JESSIE RANGEL

Taken November 21, 1973

BOBBY G. ROGERS
SOUTHWEST REPORTING SERVICES
P.O. BOX 267
Littlefield, Texas, 79339
1885

APPEARANCES

FOR THE PLAINTIFFS: HON. GEORGE KORBEL
Mexican-American Legal Defense and Educational Fund
501 Petroleum Commerce Bldg.
310 North St. Mary's Street
San Antonio, Texas

FOR THE DEFENDANTS: THE ATTORNEY GENERAL OF TEXAS
SUPREME COURT BUILDING
Austin, Texas

By Hon. Elizabeth B. Levatino
Hon. Larry York

---oOo---

- A G R E E M E N T -

THE PARTIES TO THE ABOVE entitled and numbered cause, through their respective attorneys of record appearing herein, waive notice, service and time; and agree that the deposition of JESSIE RANGEL, may be taken on behalf of Plaintiffs on the 21st day of November, A.D. 1973, before Bobby G. Rogers, Certified Shorthand Reporter in and for the State of Texas.

THE PARTIES FURTHER AGREE that all objections as to form and substance will be made by the Parties at the time of the taking of the deposition.

THE PARTIES FURTHER AGREE to waive reading of the deposition to, or by the witness, and the signing thereof by the witness, and agree that same may be returned into Court by the Reporter, or the attorneys of record for filing in said Court, and be used on the trial of these causes with the same force and effect as though the witness had read and signed the same.

---oOo---

Thereupon,

JESSIE RANGEL

was called as a witness on behalf of the Plaintiffs, and having been first duly sworn, testified as follows, to-wit:

EXAMINATION

By Mr. Korbel:

Q Would you state your name, please, for the record?

A My name is Jessie Rangel.

Q And where do you live, Mr. Rangel?

A I live at 516 55th Street.

Q And is that in the City of Lubbock, in Lubbock County, Texas?

A Yes, it is.

Q And is that located within the Lubbock County Multi-Member District?

A Yes, it is.

Q And will you state your occupation?

A I am an Admissions Counselor over at Texas Tech

University.

Q And how old are you, Mr. Rangel?

A I am twenty-nine years old.

Q And as an Admissions Counselor, have you had occasion to -- strike that.

Have you lived in Lubbock County all of your life?

A I have been here twenty-seven years.

Q And since you have been in Lubbock County, have you ever experienced any, or encountered any discrimination against you due to the fact you were Mexican-American?

A Yes, I have.

Q And can you describe some of that, please?

A Well, I can describe two recent incidents.

One, a year and a half ago, in this motel right after a football game, my wife and myself and another couple came down to have something to eat.

Q And were you all Mexican-Americans?

A Right. We were.

Q All right.

A And we walked in here and we sat down and we sat and we sat, expecting somebody to come back to bring us a glass of water or a menu, or something --

Q Uh huh.

A -- and since being at a football game, you know, people were coming in all the time --

Q Uh huh.

A -- but after awhile we noticed that nobody would come back and give us even a glass of water or a menu, or anything.

Q Uh huh.

A So we figured that possibly we weren't going to get served, so we got up and walked out.

Q Uh huh. And during that time were Anglos being served?

A Yes, they were.

Q I see. Okay. And prior to that were you ever discriminated against in restaurants or any other type of occupation -- or any other type of facilities?

A Well, after I got married in '71, at the time I was an undergraduate at Tech, and my wife was a school teacher, and we needed a place to live, so there was a place on 24th Street that I figured I could -- since I was going to school, it was a good chance for me to be near the school, and at the same time it was pretty close to where she was teaching, and there was an ad in the paper about this house on 24th Street, and I picked up the phone and called this lady --

Q Uh huh.

A -- and at the outset, she asked me if I was a foreign student.

And I said: "No, I am not."

And she said: "You have got an accent."

And I said: "Yes, I do."

And she said: "Are you Mexican?"

And I said: "Yes, I am."

And she went into an elaborate -- first of all she says: "Well, I don't think you would like the house."

And I said: "Why not?"

And she said: "Oh, it is too small for you."

And I said: "Well, it is just myself and my wife."

And she said: "Well, no, I don't think you will like it. It is too small for you."

So, finally, we just kept going back and forth, and I said: "Well, I would like to see the inside of it."

And she said: "Well, no, it is too small for you."

And finally, after five or ten minutes of going back and forth, she said: "Well, I just rented it."

And I said: "Okay."

But at the same time I knew what her reason was.

So I went back a couple of weeks later and the house was still empty.

Q It was still empty?

A Yes, it was.

Q And how about discrimination against you in terms of public park facilities?

A Well, I graduated from Lubbock High in 1964, and at the time they had what they call Seniors' Day, and they take all the seniors out and they have a good time in the afternoon.

Q What was the racial breakdown of the graduating class at Lubbock High at that time?

A Well, to my best recollection, there were only twelve Latin-Americans that graduated.

Q Out of how many?

A Out of approximately 480 students.

Q Okay.

A And they had a, what they called -- and still do to this day, as I know, they have what they call Seniors' Day, and they took us out to Clapps Pool, which is located on 45th and U, and they took us out there to the swimming pool.

Q Okay. Now, just to locate 45th and U, would that be in the Southeastern corner of the City?

A It would be the south part of Lubbock.

Q Southern part of Lubbock?

A Yes.

Q Would this in the minority area of Lubbock?

A No. At the time it was predominantly Anglo, so they took us out there for our Senior Day, and we went swimming, and I didn't have any problem getting in, and there was approximately four hundred and someodd students there, too, approximately.

But later on I went back, because I liked it. They had a good slide there and everything, so I went back by myself and tried to get in and they told me I couldn't go in.

Q Have you ever used that facility since?

A I haven't been back since.

Q Did you ever experience discrimination in -- well, strike that. I think we have covered that discrimination.

Now, with respect to your position as a Counselor, or as an Admissions Counselor at Texas Tech --

A Uh huh.

Q -- will you tell me why that position was set up?

A I don't think it was set up. I think it has been there for a long time, and there was a vacancy, and I have

been there approximately two months now, is all.

Q And what is your primary job over there?

A Well, the different high schools in the State of Texas have what they call College Nights --

Q Uh huh.

A -- and they invite representatives in from different colleges to explain to the students their programs, procedures, and whatever the college has to offer for the students, and we get invitations and we go down and we explain to the students whatever -- we try to answer some of the questions that they have.

Q I see. Now, when you graduated from Lubbock, the Lubbock High School, where were the major amount of Mexican-American students going to school?

A At that time they were going to Lubbock High.

Q They were going to Lubbock High?

A Yes, they were.

Q So the predominant number of Mexican-Americans in the high school when you graduated were in Lubbock High, and there were only how many in your class?

A Well, to the best of my recollection, there were only twelve.

Q How do you account for the fact that Mexican-Americans accounted for such -- when Mexican-Americans

account for such a substantial portion of the population, that there were only twelve Mexican-Americans graduating there?

A Well, I can relate -- again, I think a lot of times that is due to various factors,

Q Uh huh.

A But I believe that one of them is the type of counseling that we have in the high schools.

Q Uh huh.

A But, again, I can only relate what I experienced.

Q As an Admissions Counselor now, yourself, can you sort of describe some of the counseling experiences that you had when you were in Lubbock High School?

A Well, a lot of times a counselor -- well, if I am permitted to name names?

Q Name names if you want to.

A Okay.

MR. YORK: You are encouraged to.

A Dr. Leslie, who is the present Superintendent of Schools, was my high school assistant principal, and I talked to him several times, and also to Ms. Morris, who was my high school principal at the time -- I mean

my high school counselor, my senior counselor at the time.

Q Uh huh.

A And whenever I talked to them I got the impression that they felt that maybe I should go into a vocational type of trade, or a vocational type of training, but I insisted that I wanted to go on to school.

Q Was it in general? Were they counseling other Mexican-American students that they should go into a vocational trade? Was that common?

A Well, I cannot speak for anybody else. The only thing I can say is, you know, what I have been experiencing, what I have been through.

Q Did any of the other twelve graduates, when you graduated from Texas Tech -- when you graduated from Lubbock High, I should say, go on to college?

A To my recollection, none of them did.

Q Are you the only one from your graduating class that went on to college, is that correct?

A The previous year, there was, I think, only ten graduated, and one of them, her name was Anita Carmona, she was the only one, to the best of my recollection, that went on to college.

Q I see.

A And that was the graduating class of '63.

Q I see.

A And when I graduated in '64, I am the only graduate of that particular class that I know of.

Now, two of them, I believe, went to school afterwards, after they got married.

Q I see. Lets see, now, there has been some confusion, I think, about -- or may have been some confusion about the number of Mexican-American students at Texas Tech, and where they come from, and the like.

How many Mexican-American students are there at Texas Tech now?

A Approximately 460.

Q All right.

A Out of 21,000 students.

Q Out of 21,000 students?

A Right.

Q And where do the majority of those students come from?

A Well, I would venture to say most of them come from the surrounding areas of -- within, you know, Lubbock County.

Q Within the surrounding areas?

A Right.

Q We are talking about all the counties surrounding

Lubbock County, they come from about the same areas that the Anglos come from?

A Well, we have some from as far as Plainview, which is not in Lubbock County.

Q Uh huh.

A And we have some from Morton, and we have some from Levelland, Tahoka, Lamesa.

Q How about the Lubbock Independent School District itself, from the City of Lubbock?

A I don't have the breakdown as far as how many come from Lubbock --

Q Uh huh.

A -- but I would venture to say that there aren't that many Mexican-Americans.

Q All right. Now, what was your wife's occupation before you married her?

A School teacher.

Q She was a school teacher. Did she teach in the Lubbock Independent School District?

A Yes, she did.

Q And was she one of the -- is she Mexican-American?

A No, she was born in Mexico.

Q I see. But she is a Spanish Surnamed individual?

A Right. She is.

Q Is she an American Citizen now?

A Yes, she is.

Q I see. Now, when did she begin teaching in the Lubbock Independent School District?

A 1967, I believe.

Q And when she began teaching in the Lubbock Independent School District, how many other Mexican-American teachers were there in '67?

A At the time I don't think there were any. There had been approximately two before her.

Q In the years you were in school, how many Mexican-American teachers did you have, or did you see?

A None.

Q Did you have any teachers that spoke Spanish?

A None -- well, I take that back. My high school language teacher did.

Q Your Spanish teacher spoke Spanish?

A Right.

Q Now, while your wife was a teacher in the Lubbock Independent School District, did she have any experiences -- did she have any discriminatory experiences against her -- strike that.

While your wife was in the Lubbock Independent School District, did she have any experiences with the

no-Spanish rule?

A Well, she did tell me that at one time they had a PTA Meeting --

Q Uh huh. Now, when would this be, about?

A Oh, approximately '68.

Q Okay. 1968.

A They had a PTA Meeting and they invited the parents in, and some of the parents were naturally parents of Mexican-American students, and they couldn't understand what was being said, and as a result she had to speak Spanish to the parents to explain what was being said and what was -- and some of the proceedings, etcetra.

Q And at that time was she teaching in a predominantly Mexican-American School?

A Yes, she was.

Q What school was that?

A That was the Bean Elementary.

Q Okay. Go ahead.

A And while she was speaking Spanish to the parents, one of the nurses reported her to the principal.

Q Uh huh.

A And the principal came by and told her that she was not allowed to speak Spanish anywhere on the school grounds, but she told him that she was going to speak

Spanish any time that she felt like the parents, or the students, didn't understand what was being said.

Q She said she would speak Spanish whenever it would be better as a teacher?

A Right. Whenever she felt that the students or the parents didn't understand what was being said, so there would be a better understanding to the parents and the students.

Q I see. You said that there were twelve or fourteen, I forget how many Mexican-Americans, had graduated from Lubbock High, and that was the most Mexican-Americans in the City that had graduated from high school, when you graduated from high school.

What happened to all the rest of the Mexican-Americans?

A What do you mean?

Q The students?

A You mean between the --

Q I imagine there were more Mexican-American students when you started into grade school?

A Well, as far as I can remember, there were approximately 150 that started Lubbock High.

Q Uh huh. When you were a freshman?

A Well, Lubbock High starts with the sophomore year.

Q When you were a sophomore there were approximately 150 Mexican-Americans?

A That's right.

Q And what accounted for the difference between the 150 and the 12 or 14 that graduated when you graduated?

A Well, there are "x" number of reasons that one can point to.

Q As a present counselor, though, can you describe some of these reasons?

A Well, a lot of times the students will become disillusioned with the system itself, they feel like they are being put down.

Q Uh huh.

A The teacher sometimes attacks their culture and their language.

Q Did you experience that while you were in Lubbock High?

A Well, I did. Many times. I hardly ever participated in any of the activities because I had to work, but I did feel that many times we were left out --

Q Uh huh.

A -- of the -- of a lot of the activities.

Q The teachers made you feel that way?

A Well, the students and the instructors.

Q Yes. Okay. So that a substantial number of the Mexican-Americans dropped out between their sophomore year in high school and graduating from high school, is that correct?

A Yes.

Q And did a like number of Anglos drop out during those years?

A Well, I am pretty sure they did. I don't have the --

Q Would the same percentage of Anglos drop out?

You had almost 90 per cent of the Mexican-Americans drop out; did the same percentage of Anglos drop out?

A I don't have any statistics to that, I don't want to say.

MR. KORBEL: Okay. I don't have any further questions.

EXAMINATION

By Mr. York:

Q Okay. I just have a couple.

A Okay.

Q As far as the reasons for any of the kids dropping out of high school, but specifically the Mexican-Americans dropping out here, wouldn't it be fair to say at least there are other reasons for that?

A That's right.

Q Besides just the influence of the school?

A I said that, I believe that is true.

Q That you would have to look at the culture they had been raised in, --

A Right.

Q -- their own family's motivation, --

A Yes.

Q -- and their own motivation, and just a whole lot of things, even conceding that the school might play some part in it, there are a lot of factors that go into it?

A Yes, I agree with that.

Q It would be entirely too simple to say that they dropped out just because the schools were bad?

A Right.

Q All right. And from your counseling experience, I expect you know that across the state and across the nation, that even under the best kinds of circumstances in schools, that there is probably a greater problem with

dropouts in Mexican-American kids than there is with Anglo kids, across the board, is that true?

A Yes.

Q All right. On the specific counseling that you got, I think your words were to the effect that you got the feeling that they were encouraging you to do something in the arts and crafts, or in the vocational kind of sphere, as opposed to going on to college. I am wondering how that was verbalized to you?

Did they just tell you, "You, specific individual, ought not to go to college, you ought to be a welder," or was that more of sort of a suggestive feeling that you came away with?

A Well, if you -- if one was to look in the public schools of Lubbock, he will find that in Dunbar, Estacado, and Lubbock High, this is where one will find the vocational types of schools.

For example, you will find the technical, the welding schools, mechanic schools.

And these schools, it is my feeling that the students are being geared towards the vocational type of schools, whereas, at Coronado and Monterey, if they want to take a welding type of trade, they have to go to one of the other schools.

Now, back to your question; yes, I feel like when I was in high school, many times Ms. Morris told me that she felt that I should go into some -- instead of taking triginometry or taking geometry, that I should be taking, like, maybe auto mechanics or wood shop, and I told her that I wanted to go on to college, and she gave me the indication that it was hard.

I said: "Yes, I know it is hard, but I feel I can do it."

And after I came back from the service in '68, I went to talk to Dr. Leslie -- he wasn't a doctor, then, I don't believe he was, he was working in an admissions capacity, and I went and talked to him, and I said: "Mr. Leslie, I want to go on to school."

He said: "Jessie, I think you ought to think about this, it is going to be hard, you have been out of school for four years."

I said: "I know that, but I think I can make it."

And I think that it is my personal opinion that a student should decide what he wants to do.

In other words, I think it is a counselor's job to point out the different opportunities that a student has, but it should be left up to the individual student to make up his mind. If he wants to be a welder, fine, lead

him in the right path. If he wants to be a doctor, a lawyer, what-have-you, fine. But I think it should be the individual student who should make up his mind, and not be encouraged by the counselor to take a -- there has been an investigation by the Civil Rights Commission, and they have always asked Anglo counselors: "What kind of a guy do you think it takes to become a student?"

And they said that they felt and that they assumed that they were not going to college, and therefore, they were led toward a vocational type of training.

This investigation took place in Denver, Colorado, and some took place in San Antonio, and in South Texas.

Q Well, now, I suppose that even in those situations you would probably concede that the motivation of the particular counselor, even assuming that what you say is true, assuming that it is all true, it wouldn't necessarily lead you to the conclusion that the motivation of the individual counselor was somehow racially slanted, would it?

By "racially slanted" I mean slanted in the way of saying: "By golly, I don't like Mexican-Americans, I don't want them to go to college, I want them to be welders or cotton pickers."

I mean it could be a thing where the individual

counselor realizes what the numbers were in terms of Mexican-Americans that had completed college, or had completed high school; might feel that that individual Mexican-American might be better off economically to develop some skills of a saleable sort, rather than to take some courses which might ultimately lead him nowhere; and a well motivated counselor might reach that conclusion.

Would you agree with that?

A I think that would be correct.

Q All right, sir. And I assume that there is no contention being made that the admissions policy at Texas Tech, for instance, is racially off?

A No.

Q In other words, they would gladly take all the qualified Mexican-American students that apply, I suppose, is that not right?

A In my capacity -- we do have certain requirements.

For example, a student does have to have three years of English, two years of math, and science, etcetra, but when a student comes to me and tells me: "I would like to go to school."

And I look at his high school transcript and he lacks a course in English, or he lacks a course in Math, or he lacks a course in what-have-you, and I said: "Look,

"we can't admit you because you lack an English Course."

And they say: "Well, nobody told me about this."

And I said: "Well, did you talk to your school counselor?"

And he says: "Well, he advised me to take a wood shop. He advised meto take band. He advised me to take auto mechanics."

I say: "Well, that is fine, but we can't admit you under those circumstances."

You know, and I feel like -- I talked to Mr. Junoz at Lubbock High, he is the Assistant Principal of Lubbock High, and he was telling me that they were now preparing all students to -- if they want to go on to college, that they will have to meet the minimum requirements for any college.

But there are a lot of students still coming to me who are just out of high school, but they are from the rural area schools, and this student comes in and says: "I don't have enough English credit, or Laboratory credit," and etcetra.

Q Okay. But in terms of Texas Tech itself having a policy which is racially oriented, they apparently have a uniform policy?

A They do have a uniform policy.

Q There is no contention being made that they turn people away just because they happen to be Mexican-Americans?

A No, we admit them if they are qualified.

Q All right. Now, what is the current status of the Spanish speaking rule in the public schools?

Is that still alive and well, or not?

A To be frank with you, I don't know.

As far as I know, the -- my wife also taught in the bilingual program, and it was admitted, so I am saying it has probably been done away with.

Q But that was something that went on at one time, and as far as you know, that is gone now?

A As far as I know it doesn't go on now.

Q Okay. How long did you wait for service after the football game before you decided to give up?

A Well, the reason we went in here was because the couple that we went with, they were from Marfa, Texas, and they didn't believe this existed. And we kept telling them about it, and we said: "Well, it is hard to believe."

And I didn't -- I wasn't expecting it that particular night. It was after a Picador Game on Thursday night, and after the football game, oh, it was a quarter of 11:00, and we came down -- maybe 11:00 o'clock, and we

waited until about 11:30, and we were noticing that people were being served and we weren't.

Q You mean you went into the place with some friends from down at Marfa --

A No.

Q -- and they were kind of saying: "We don't believe you have discrimination up here in Lubbock?

A Yeah. We had talked about this before.

In other words, we were at each other's homes, and we talked about it existing, but they didn't believe it.

Q And you were going to demonstrate it to them?

A Well, I didn't expect it that particular night. I mean I expected that sooner or later they were going to encounter it.

Q And you had been served in that place before?

A No, I had never been to this place before.

Q Oh, you never had been there?

A No, I had never been to the Inn-Town Inn.

Q Oh, is that this place here?

A That is this place here, yes.

Q Well, they serve Mexican-Americans now, don't they?

A Right. Well, again, this is a -- when I came

down that particular -- I came back down and I talked to the manager the next day, and I told him what had happened, and he said he was sorry, and he said they had had problems with a particular waitress, and they were going to get rid of her, and he offered to buy us a dinner, for my wife and the other couple and myself, and I told him I didn't want his dinner, all I wanted, you know, was for him to understand what had happened.

And he said: "Well, any time you want to come back, you are welcome."

And we came back later and she was gone.

So, again, it was a particular instance and it could be, you know, just related to a particular person.

Q Certainly the guy that ran the place -- I mean you didn't walk in with the FBI, or anything --

A No.

Q -- you just came in as an individual?

A Right.

Q And said: "Hey, I didn't get waited on last night."

A Yes.

Q And did he seem genuinely sorry about it?

A That's right. He was. He said they had had some

complaints about that particular waitress, but nobody had come forward.

Q Were they all complaints related to not serving Mexican-Americans, or she wasn't very fast, or couldn't add very good?

A No. According to that manager, he said that they had had -- that they had heard of some little incidences before but nobody had come, you know, into his office and made him a complaint.

MR. KORBEL: Would these have been racial type incidents?

THE WITNESS: Right.

Q (By Mr. York:) But when somebody told him about it, out she went, apparently?

A Well, when I came back a week later, or so, why she was gone.

MR. YORK: Okay. That is all I have got. Thank you very much.

MR. KORBEL: No further questions.

[Witness excused, deposition [concluded.

THE STATE OF TEXAS]
]
COUNTY OF LAMB]

I, BOBBY G. ROGERS, Certified Shorthand Reporter in and for the State of Texas, do hereby certify that the facts stated by me in the caption hereof are true, and that the said witness did make the above and foregoing answers in response to questions propounded as shown, and that I did, in shorthand, report said proceedings, and that the above and foregoing typewritten pages contain a full, true and correct transcription of my shorthand notes taken on said occasion.

WITNESS MY OFFICIAL HAND, this the 27th day of November, A. D. 1973.

/S/ Bobby G. Rogers
Certified Shorthand Reporter.

---oOo---

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF TEXAS
AUSTIN DIVISION

CURTIS GRAVES, ET AL, VS. BEN BARNES, ET AL	NO. A-71-CA-142
DIANA REGESTER, ET AL VS. BOB BULLOCK, ET AL	NO. A-71-CA-143
JOHNNY MARRIOTT, ET AL VS. PRESTON SMITH, ET AL	NO. A-71-CA-144
VAN HENRY ARCHER, ET AL VS. PRESTON SMITH, ET AL	NO. A-71-CA-145
FRANK ESCALANTE, ET AL VS. MARK WHITE, ET AL	NO. A-73-CA-115
JAMES GASKIN, ET AL, VS. MARK W. WHITE, ET AL	NO. A-73-CA-146
WANDA L. CHAPMAN, ET AL VS. MARK W. WHITE, JR., ET AL.	NO. A-73-CA-155

ORAL DEPOSITION OF FROY SALINAS

Taken November 21, 1973

BOBBY G. ROGERS
SOUTHWEST REPORTING SERVICES
P.O. BOX 267
LITTLEFIELD, TEXAS, 79339

APPEARANCES

FOR THE PLAINTIFFS:

HON. GEORGE KORBEL
Mexican-American Legal Defense
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San Antonio, Texas

FOR THE DEFENDANTS:

THE ATTORNEY GENERAL OF TEXAS
SUPREME COURT BUILDING
AUSTIN, Texas

By Hon. Elizabeth B. Levatino
Hon. Larry York

---oOo---

- A G R E E M E N T -

THE PARTIES to the above entitled and numbered cause, through their respective attorneys of record appearing herein, waive notice, service and time; and agree that the deposition of FROY SALINAS may be taken on behalf of Plaintiffs on the 21st day of November, A. D. 1973, before Bobby G. Rogers, Certified Shorthand Reporter in and for the State of Texas.

THE PARTIES FURTHER AGREE that all objections as to form and substance will be made by the Parties at the time of taking of the deposition.

THE PARTIES FURTHER AGREE to waive reading of the deposition to, or by the witness, and the signing thereof by the witness, and agree that same may be returned into Court by the Reporter, or the attorneys of record, for filing in said Court and be used on the trial of these causes with the same force and effect as though the witness had read and signed the same.

---oOo---

Thereupon,

FROY SALINAS

was called as a witness on behalf of the Plaintiffs, and having been first duly sworn, testified as follows, to-wit:

EXAMINATION

By Mr. Korbel:

Q Would you state your full name for the record, please?

A Froy Salinas.

Q And can you spell that, please?

A F-r-o-y S-a-l-i-n-a-s.

Q Mr. Salinas, there is a rule that says you are to read these depositions and sign them before a Notary Public and make any changes in there which you feel are wrong, or don't truly reflect the answer, but I have never seen them make a mistake, so we waive that reading and signing, especially where we are in short time.

A But you will read it?

Q I will read it, and if there is a "3" which

should be a "5" or something like that, and if that happens, the lawyers can usually stipulate.

A I will waive it.

MR. KORBEL: Okay. The record should show that the witness will waive reading and signing the deposition.

Q (By Mr. Korbel:) Is that correct?

A That is correct.

Q Okay. Mr. Salinas, what is your residence?

A 1306 49th Street.

Q And that is in Lubbock?

A Lubbock, Texas.

Q And that is in Lubbock County, is that correct?

A Yes, it is.

Q Is that located within the Lubbock County Multi-Member District?

A It is.

Q And what is your occupation?

A Life insurance.

Q I see. How long have you lived in Lubbock?

A Approximately eight years.

Q And prior to your coming to Lubbock, where did you

live?

A Tahoka.

Q And where is Tahoka, Texas?

A Lynn County, 26 miles, approximately, south of Lubbock, Texas.

Q Would it be fair to say that it is within the sphere of influence of Lubbock County, Texas?

A Very definitely.

Q Okay. And you have lived there all your life, is that correct?

A Yes.

Q Either in Tahoka or in Lubbock County?

A That is correct.

Q And how old are you, Mr. Salinas?

A 34.

Q All right, sir. During the time that you have lived in the area, have you ever encountered any discrimination against yourself because of the fact that you were a Mexican-American?

A Yes, I have.

Q And can you describe some of those instances of discrimination?

A Yes. As a young man in Tahoka, there were outright acts of discrimination, and by this I mean

the restaurants had signs on their windows that said "Whites Only," and --

Q When the sign said "Whites Only," was that interpreted to exclude Mexican-Americans?

A Yes, it was.

Q How do you know this?

A Because I was refused service.

Q Uh huh. Just describe some of those instances where you were refused service.

A Okay. First of all, like I say, in Tahoka, I went into a restaurant and they wouldn't serve me.

Q Uh huh.

A A drug store there wouldn't serve me.

Restaurants here in Lubbock wouldn't serve me.

Q Now, in Tahoka, what time spans are we talking about? What years would those be?

A That was the early '50's, late '50's.

Q When you were living in that area, is that correct?

A Right.

Q And after you came to Lubbock -- well, lets back up; were there any movie theaters in Tahoka?

A Yes, there were.

Q And were you permitted to go to the movie theaters?

A Yes. Yes, I was.

Q Okay. And then, when you moved to Lubbock, Texas, what year was that, about?

A I moved to Lubbock, Texas, in 1965.

Q Okay. And can you describe some of your experiences in and around Lubbock, Texas?

A Yes, in Lubbock, Texas, I was refused service at Luby's Cafeteria.

Q Uh huh. When was this, now? What year would this be, about?

A That would probably be the late '50's.

Q Now, when you were refused service, can you tell me what you said, or what was said to you, or what was the substance of the conversation?

A Yes. Quite bluntly it was: "We don't serve Mexicans."

Q I see. And did Luby's Cafeteria, did you later find out, have a reputation for not serving Mexicans?

A Yes, they did.

Q Okay. Can you describe some other instances of discrimination?

A Well, there was another -- there was -- in fact, this restaurant was still -- is still in business, and at that time I believe it was called Lee's Malt Shop on

34th Street right off of Avenue H.

Q Uh huh.

A And it is Lee's Cafe, or something.

Q Uh huh.

A I went into that place one time with some Anglo friends --

Q Uh huh.

A -- and we sat down at the table and -- expecting service, --

Q Uh huh.

A -- and they came over, the waitress came over to the table and said she could serve the Anglos but could not serve the Mexicans.

Q In what year would that have been in, about?

A That was in the late '50's.

Q Uh huh.

A I was still living in Tahoka at that time.

Q Uh huh.

A I was up here for a baseball game.

Q Any other instances of discrimination?

A Yes. Tahoka, for example, they would not cut Mexicans' hair, or anybody of Mexican descent, they wouldn't cut their hair.

Q How do you know this?

A Because I was refused service at local barber shops in Tahoka.

Q And what did they say to you?

A "We can't cut your hair."

Q Did they explain why they couldn't cut your hair?

A Because I was Mexican.

Q Okay. Any other types of instances of discrimination, lets say, in entertainment?

A Yes. As a young man, like the record reflects, Tahoka is not that far from here so I used to come to Lubbock quite often for grocery buying, and things like this, and I came to the Clifton Theater and the Lindsey Theater --

Q Uh huh.

A -- and I was refused admission to the theaters.

Q And would those be in the early '60's?

A Yes.

Q Okay. Have you, or any member of your family, experienced any discrimination in housing, or refusal to sell housing?

A Yes. When I -- I would like to explain a little bit.

Q Fine.

A In the late '50's, when I got out of high school --

Q Uh huh.

A -- the reason I am a little bit more familiar with Lubbock than some people is that in 1958 I started working in Lubbock.

Q Yes, sir.

A I lived at Tahoka and I drove back and forth every day.

Q Uh huh.

A So, therefore, I have been associated with the City of Lubbock since 1958.

MR. KORBEL: Off the record.

[Off the record discussion.]

MR. KORBEL: Back on the record.

Q (By Mr. Korbel:) Go ahead.

A In the early '60's, I was still in the process of driving back and forth to Lubbock --

Q Uh huh.

A At that time, I was driving back and forth with

a man by the name of John Chappa, Jr., who at this time is my brother-in-law.

Q Uh huh.

A At that time he was not yet my brother-in-law.

Q Uh huh.

A But he was tired of driving back and forth because he had driven for many years prior to that, back and forth, to Lubbock.

Q And he wanted to move to Lubbock?

A Yes, he was looking for a house.

Q Wanted to relocate in Lubbock?

A Yes, he wanted to relocate in Lubbock. So he found, in Lubbock, a home that he felt like he could afford.

I would like to explain for the record that my brother-in-law is a six foot, light complected, blue eyed person of Mexican descent.

He found a home that he thought that he could afford in what we know as the Arnett-Benson Community of Lubbock, Texas.

Q At that time, what was generally the racial and ethnic makeup of the Arnett Benson Area in Lubbock?

A It was predominately Anglo.

Q I see. Okay. Go ahead.

A He was shown this home in the Arnett-Benson Area by a real estate man, and was told the price, was shown the home; he liked the home, and made an appointment with the real estateman to bring his wife to show the home --

Q Uh huh.

A -- to the lady of the house.

And the next meeting, which I believe was on a Saturday, because this was his day off, he had an appointment with the real estate man, and when the real estate man saw my brother-in-law's wife, who is very Mexican and very dark complected, the real estate man said: "I am sorry, but I don't believe this part of the community would accept your wife being a Mexican."

Q Uh huh.

A And, of course, needless to say, my brother-in-law was furious, and said: "What do you think I am? I am a Mexican, also." And he said: "If that is the general attitude of this community, I certainly don't want to live here and I don't want to buy this home."

So he did not buy the home.

Q And is this typically, this discrimination we have talked about, in terms -- well, strike that.

How about discrimination in other forms of

recreation, lets say parks in Lubbock County, and the facilities --

A If I may...?

Q Yes, sir.

A Could I expand on this real estate thing?

Q Fine.

A Okay. Now, that was many years ago, and I realize that.

Q What year would that be, about?

A That was early '60's.

Q Uh huh.

A '61, '62, somewhere in there probably. I could not -- I am sure that Mr. Chappa would remember the exact date.

Q Uh huh.

A The current housing thing, I would like to reflect, that a year or so ago I was interested in selling my home.

Q Uh huh.

A I live at 1306 49th, here in Lubbock.

Q Uh huh.

A And I was told by not one, but several real estate people, that because of the location of my home, that the value of it had decreased.

Q Now, what do you say "because of location"?

A Okay. They were referring to the boundary, the school boundary, which has been changed by Court Order, to attempt to integrate the Lubbock Schools.

Q Uh huh.

A I happen to live east of Avenue Q.

Q Uh huh.

A The boundary for Dunbar High School, which is a predominately Black School --

Q Before we go any further. Now, Dunbar High School, is that the old Negro High School?

A That is the old Negro High School.

Q And is that located in relatively the same position that it always has been?

A It has always been at -- I take that back. I think they built a new facility.

Q Uh huh.

A The original one was in that general area, but it wasn't the same --

Q But it was in that same general area?

A Yeah. Same general area.

Q All right. And where would that be? Do you know the address, about?

A I believe that is Manhattan Drive, or something

like that, and East 26th, somewhere in there.

Q And would that be generally what you would term the Black Area of Lubbock?

A The Black Area of Lubbock, right.

Q And the population around there would be what percentage Black at this time?

A 98 to 99 per cent.

Q Okay. Go ahead.

A Okay. And I was told by several real estate people that my home had depreciated in value because of the school boundary lines --

Q Uh huh.

A -- and that it would probably be very difficult to sell my home to an Anglo person that could probably afford the equity --

Q Uh huh.

A -- because I have been there several years, and I made a considerable down payment when I bought the home.

Q Uh huh.

A And in the opinion of the real estate people, it would be very difficult to sell my home.

Q Now, at the present time, the Dunbar School, is that primarily Mexican-American and Black?

A I would say it is primarily Black and Mexican-American, yes.

Q I see.

A Very few whites.

Q I see. And we have got exhibits in the record which reflect the percentage of the Mexican-Americans and Blacks and Anglos at that school.

The area you are living in, then, is becoming increasingly minority, is that correct?

A Yes, I would say that, yes. Uh huh.

Q I see.

A More minorities -- I feel like that the real estate people have something to do with this, because they have a tendency to show homes -- vacant homes in this area to minorities.

Q That is the reputation the realtors have in this area?

A That is the reputation they have because they actually do it.

Q They show the Mexican-Americans homes in the Mexican-American area, and the Blacks homes in the Black area?

A That's right. And they will discourage Anglos from buying in that area.

Q I see.

A Because of the devaluation of the properties.

Q Uh huh. Okay. What about the discrimination in other facilities, lets say, parks?

A Yes. We have had, in the past, discrimination in our parks.

Q Can you describe that?

A One example is at MacKenzie Park, for example, the swimming pool facility there, publicly owned by the City of Lubbock, and supported with tax dollars, they would not allow Mexicans to go swimming there.

Q Until when?

A I would imagine that that was -- I was refused service there in the early '60's.

Q Uh huh.

A So, I -- the Civil Rights Act of '64 might have had something to do with it.

Q I see.

A But I believe in '62 or '3, I was refused service there personally.

Q I see. Was there a swimming facility the Mexican-Americans were allowed to use in that area?

Well, lets take this back. Were Blacks also being denied the use of this facility?

A I would think so.

Q Uh huh.

A Not being a Black, I wouldn't know, but I was turned down as being a Brown.

Q Okay. Was there a facility which was open to Mexican-Americans?

A Not that I know of.

Q I see. The City presented no alternate facility for swimming, is that correct?

A No.

Q Until what year, now? You think about '64?

A '64.

Q Okay.

A 1964.

Q I see. Now, you are generally familiar with the history of other types of discrimination in Lubbock County than -- you have just been dealing with the fairly recent types of discrimination in Lubbock County, and we have in the record in the Howell Deposition a History of the Mexican-Americans in Lubbock County, and I am not going to go into detail with you on the past history, I think that thesis speaks for itself.

Okay.

MR. YORK: Which record is that in?

MR. KORBEL: This is in the record in the Howell Deposition, we offered this thesis in the last deposition.

MR. YORK: I take it we objected to it?

MR. KORBEL: Off the record.

[Off the record discussion.]

MR. KORBEL: Back on the record.

Q (By Mr. Korbel:) Does this type of discrimination -- referring to the types of discrimination which you know to exist previous to the late '50's and early '60's and middle '60's, does this type of discrimination against Mexican-Americans still persist?

A I believe that it does persist.

Q Is it as blatant as this?

A No, I believe that it has become more subtle.

Q And can you describe briefly what you mean by "more subtle"?

A Well, I believe that, for example, there is still discrimination in housing.

Q Uh huh. And you have described that?

A I have described that as being -- and that is evident.

Q Uh huh. And how about social discrimination?

A Social discrimination I would say exists today.

Q And lets say the social organizations in Lubbock County -- strike that.

Go ahead. I am sorry.

A Okay. When I am talking about social, I am talking about the -- for example the Rotary Clubs, the Kiwanis Club, Lions Club, and things of this nature; Jaycees, do not reflect the populus, percentage wise of Mexican-American Citizens.

Q Now, are Mexican-Americans actually kept out of these organizations by "No Mexican-Americans Allowed" signs, that type of thing?

A No, that is why I said it is more subtle.

Q Uh huh.

A Because these things are not done.

Q Uh huh.

A However, Mexican-Americans are not encouraged nor invited to participate in some of these social things.

Q Uh huh.

A Some of the other things require money, for

example, the Local Country Clubs, and so forth.

Q Is there any active recruitment on the part of these organizations to get a substantial number of Mexican-Americans, or Blacks, in them?

A That is exactly what I was trying to say. There is no big effort to encourage minorities to participate in these groups.

Q I see. Now, about the schools in Lubbock, would you say that the schools are racially identifiable?

A Yes, they are.

Q As one race schools?

A There are Lubbock Schools identifiable as racially identifiable.

Q Lets take the high schools, for example. There are four high schools in the Lubbock Independent School District, is that right?

A Right.

Q Okay. There is the Dunbar School, which you testified to be the old Black School?

A That's right.

Q And which is now primarily Mexican-American and Black?

A That's right.

Q Okay.

A Well, I think there are more Blacks.

Q More Blacks?

A Uh huh.

Q And what other schools are there?

A Estacado.

Q Yeah.

A That is predominately Black and Brown.

Q Okay. And I guess there are five schools, I am sorry.

A Lubbock High School has probably the highest concentration of Mexican-Americans in the whole City.

Q Uh huh.

And then there are --

A Then the majority schools are Monterey and Coronado.

Q Uh huh. And how many Mexican-American and Blacks would you say attend Monterey and Coronado?

A I would say the percentage would be less than two per cent.

Q I see.

A In either one of them.

Q Very low?

A Very few Black people.

Q Has there been any attempt on the part of the --

part of the School District to integrate the school system?

A Not as far as I know. The only thing they have done is tried to obey a Court Order.

Q I see.

A Which reflects on the attitude.

Q Now, would you say that what they have done is that they have changed the school boundaries?

A Yes, they changed some school boundaries in order to try to achieve some type of integration --

Q I see.

A -- at some of the schools, but they did it under Court Order.

Q I see.

A And the reason they hadn't done anything before was because it would not be popular with the community.

Q I see. Now, when these boundary lines have been changed, and presumably your testimony is that some Anglos then are included within the minority school boundaries, what happens?

A What has happened here, and it is a matter of record, is that there has been White-flight from that area.

Q Now, you have White-flight occurring both from the Mexican-American -- in the Mexican-American school

boundaries, and the Black school boundaries?

A Yes.

Q Now, we have had testimony in previous deposition that Lubbock Schools had a no-Spanish rule that was enforced up until very recently.

Do you know of any other institutions in the City, or in Lubbock County, that also enforced a no-Spanish Rule?

A Yes. Texas Tech University had a no-Spanish rule for some of their employees in 1970.

Q I am going to show you what is going to be identified as Plaintiffs' Exhibit No. 1, Salinas Deposition, Lubbock County.

[Thereupon the instrument hereinafter
[described was identified as Plaintiffs'
[Exhibit 1, Salinas Deposition, Lubbock
[County, and a copy of same is
[attached to this deposition.

MR. KORBEL: I don't have -- off the record.

[Off the record discussion.]

MR. KORBEL: Back on the record.

Q (By Mr. Korbel:) I am going to show you what has been identified as P-1, Salinas Deposition, Lubbock County. Can you identify what this is?

A Yes. This is a copy of a letter that appeared on a bulletin board at Texas Tech University for some of the custodial and maintenance people out there on June 11th, 1970.

Q Uh huh.

A And, basically it states that it is--to promote better relations between the Mexicans out there and the Americans, apparently, we are going to quit speaking Spanish, and it says --

Q Before you continue, would a substantial number of the custodial employees at Texas Tech have been Spanish Surnamed individuals?

A Very definitely.

Q Okay.

A I believe the records will reflect that, and I believe if you check the employment records now, that still exists.

Q And would a substantial number of them be probably more fluent in the Spanish language than in the English language?

A Yes, I would say this is probably true.

Q Okay. Go ahead.

A The way I got ahold of this was that --

Q Well, lets go on --

A Okay.

Q Maybe I can ask you a couple of questions about this.

A All right.

Q Now, this states: "This is to give notice to all employees of the Department of Building Operations that English must (that is underlined) be spoken at all times in the presence of Faculty members, students and all employees who do not speak Spanish. This rule will be strictly enforced and disciplinary action will follow any intentional breach occurring after this notice has been given."

What was your reaction to a statement like that?

A I thought it was a typical racist action.

Q Uh huh.

A Something that someone with a racist attitude would do.

Q How do you feel when you hear something like that, or something is done like that?

A Well, it certainly annoys me that someone has -- that someone that has been given some authority, apparently, would try to enforce something as dumb or stupid as this

thing is right here.

Q And what, if anything, did you do after this came to your attention -- strike that.

How did this come to your attention, this letter?

A One of the employees had heard about some of the activities that LULAC had been involved in, and --

Q And LULAC is what?

A League of United Latin-American Citizens.

Q And can you describe briefly what that organization is?

A LULAC is an organization primarily interested in education. It was founded 45 years ago. The intent of LULAC was to combat discrimination.

Q Uh huh.

A And to better -- to promote education for people of Mexican descent for the purpose of better making a living in the United States.

Q Better community relations?

A Yeah. Right.

Q Okay. And when this came to the attention of the local LULAC Council, what, if anything, happened?

A It was brought to my attention as the District Director for this area of LULAC.

Q Uh huh.

A And the action that I took was to immediately proceed to the University Administration Building --

Q Uh huh.

A -- and I contacted the officials at Texas Tech and asked that this be immediately withdrawn --

Q Uh huh.

A -- and it was done.

Q I want to point out to you, at the end of this letter there are three lines in Spanish.

A Uh huh.

Q And will you explain for the purpose of the record what those three lines of Spanish say?

A Okay. It says: "The one exception to this rule--" and I am translating this, by the way, it is written in Spanish, it says: "The one exception to this rule if anybody wishes to talk to me in Spanish, please feel free to accept conficence --" or, in other words, to go ahead and speak to me in Spanish, and one of the words is mis-spelled.

Q Uh huh.

A And it is a key word in the whole statement, so if someone was educated and knew how to read Spanish, this would really not make too much sense.

Q Okay. And the fellow who signed -- for the record,

the person who signed the letter is C. F. Libby, and he is entitled Director of Building Operations.

It is my understanding, though, that this has been withdrawn and the Spanish Language rule no longer exists, is that right?

A Only after it was brought to the attention of the administrator at a higher level that, quote, "perhaps are better educated."

Q Okay. Now, you earlier mentioned some of the organizations in Lubbock County, the Kiwanis and the Rotary, and those organizations. Would those be racially identifiable -- let me go back and reconstruct the question.

Would there be a substantial amount of Mexican-Americans belonging to any Rotary organizations, or any Kiwanis organizations?

A No.

Q Would the Mexican-Americans and the Blacks have their own separate organizations which they belong to?

A I believe the Blacks have an Optical (Sic.) Club--not Optical --

Q Optimist?

A Optimist, yeah. There is a Black Optimist Club, and there is a Black Lions Club in Town.

Q And to your knowledge, are there any Anglos or Mexican-Americans that belong to the Black Optimist Club or the Black Lions Club?

A I don't think so. Not at this time.

Q To your knowledge, are there any substantial number of Mexican-Americans or Blacks who belong to the other Lions Clubs or Rotary Clubs?

A No.

Q So that basically they are either substantially all Anglo or substantially all Mexican-Americans or Blacks, is that right?

A That's right.

Q Okay. Do you know approximately how many students that personally attend Texas Tech?

A About 21,000 -- total students?

Q Yes. And of those total students, do you know approximately how many are Mexican-Americans?

A I believe it is somewhere around 450.

Q Okay. I think that is all the questions I have got.

A Something interesting --

MR. KORBEL: This is off the record.

[Off the record discussion.]

MR. KORBEL: Back on the record. Okay. I don't have anything else, if you want to start, Larry -- I do have one more thing, maybe I will continue.

I am going to ask that a book entitled "Managing Mexican American Employees," which has been put out by the College of Business Administration of Texas Tech University, be identified as P-2, Salinas Deposition, Lubbock County.

[Thereupon the book hereinabove described was identified as Plaintiffs' Exhibit No. 2, Salinas Deposition, Lubbock County, and same was retained by Plaintiffs' Counsel, and therefore a copy of same does not appear herein.

Q (By Mr. Korbel:) Now, I just want to ask you, again, the title of the article is "Managing Mexican-American Employees," that is the title of the book.

How does a title like that strike you? What reaction do you have to that?

A It turns me off. It offends me.

Q Why is that?

A Well, why should there be a book on managing Mexican-American Employees?

Q Uh huh.

A To me this reflects attitude, and it reflects, perhaps, there is a difference, a vast difference.

Q Now, for the purpose of the record, you are not familiar with the contents of this book --

A No.

Q -- except generally?

A Generally.

Q But the title of the book, if you saw that lying on the table, and saw that it was published by the College of Business Administration of Texas Tech, you would be offended by that?

A Right.

MR. KORBEL: Off the record.

[Off the record discussion.]

MR. KORBEL: Back on the record. At this point I am going to offer Plaintiffs' Exhibit P-1 and Plaintiffs' Exhibit P-2 in evidence.

MR. YORK: Okay. We would, I think, object to both of those as being hearsay

and irrelevant to any legal issue being tried in this case.

MR. KORBEL: Okay. I am going to show you another matter which I am going to have identified as Plaintiffs' Exhibit P-3, Salinas Deposition, Lubbock County.

[Thereupon the documents hereinafter described were identified as Plaintiffs' Exhibit No. P-3, Salinas Deposition, Lubbock County, and a copy of same appears attached to this deposition.

Q (By Mr. Korbel:) And ask you if you know what this is?

A Yes. This is a copy of some information that was printed for a Regular Board of Trustees Meeting held January 29th, 1970, of the Lubbock Public Schools.

Q And what does that document represent?

A It is a report of dropouts between the 9th and 12th grades by ethnic groups --

Q Uh huh.

A -- from 1964-65, through 1968-69.

Q And was that report compiled at your request?

A This was one of the --this was as a result of a comment by my person to the Lubbock School officials that

I -- on behalf of LULAC, the LULAC Organization was concerned with the high dropout rate of the Mexican-American students in the Lubbock Public Schools, and this was printed in an effort to say "We are trying."

Q Does the record indicate it has been accepted?

A The record indicates -- the record reflects that very little has been accomplished to curb the dropout rate.

Q Now, you have, I suppose --

A I would like to comment on this. This only reflects between the 9th and 12th grades. I contend that between the 1st and 12th grades, which is the normal school time,--

Q Uh huh.

A -- the dropout rate is considerably higher than what this report reflects.

Q Uh huh. You know that of your experience?

A Certainly.

Q Okay. Do you know how much of an effort Lubbock Independent School District takes to secure attendance of Mexican-American truants?

A I believe that that has commenced, or a program has been started to try to help the truant situation, but this is only a two year old program.

Q In the past, lets say prior to 1970, what, if any efforts were made?

A No efforts were made.

Q I see. Now, then, in Lubbock County, for the State House of Representatives -- strike that.

I have no other questions.

A I would like to make a further comment on this --

MR. KORBEL: Lets go off the record.

[Off the record discussion.]

MR. KORBEL: I guess I have no further questions at this time.

EXAMINATION

By Mr. York:

Q Mr. Salinas, I would like to start at the back, I guess, for a little bit, and work forward.

Let me ask you about this book that has been marked as Plaintiffs' Exhibit 2, titled "Managing Mexican-

"American Employees," apparently that offends you, just the title?

A Yes, it does.

Q And you have admitted you don't know what is in the book?

A No, I am just talking about the title.

Q Okay. Do you think that there are different problems -- that the Mexican-American employees in this area have different kinds of problems in doing the kind of work they do, in this area, than an Anglo employee would have?

A I don't think I understand your question.

Q Do you think that the Mexican-American working man in this area has the same kinds of problems with his employer that the Anglo working man has with his employer?

MR. KORBEL: Can we go off the record for just a second?

MR. YORK: Why don't you let him answer it, and then, if you want to --

MR. KORBEL: Well, I think you are misunderstanding him. I don't think you understand what --

MR. YORK: Well, let me see if I can work it out with him? Okay?

MR. KORBEL: Fine. Fine.

A Okay. You are asking me if I think there are different problems with Mexican-Americans and Anglos?

Q In their relation with their employers?

A I will say probably different problems.

Q You think, then, that the employer might have different problems in relating to a Mexican-American employee than he might have in relating to his Anglo employees?

A Very possibly.

Q You think it would be appropriate, or desirable that the employer study those problems, and try to solve those problems both with regard to his Anglo employees and his Mexican American Employees?

A Do I think he should study their problems?

Q Yes.

A I think he should be aware of their problems?

Q Do you think reading a book on the subject of the particular problems that Mexican-American employees have with their employer might be helpful to that employer in reaching that goal?

A It might be.

Q All right.

A Not that particular book necessarily.

Q Well, you have told us that you don't know what is in the book.

A No.

Q So, being fair about it to both sides, it would be hard to say that about that book since you don't know what is in it? Right?

A Uh huh.

Q You wouldn't quarrel with the fact that it might be a good idea for somebody to write a book on those problems?

A I wouldn't quarrel with it.

Q You would simply suggest that they title it something different, I take it?

A Perhaps.

Q What would you title that book in order to make it not offensive to you?

A Well, first of all, I would get an employee to write the book instead of somebody in an institution such as Texas Tech to write the book.

Q Did you not understand my question, or can we get the reporter to read it back?

A I thought I answered your question.

MR. KORBEL: Off the record?

MR. YORK: Okay.

[Off the record discussion.]

MR. YORK: Back on the record.

Q (By Mr. York:) What would you call it that wouldn't offend you?

Leaving the subject matter the same, what would you call the book?

A "Management."

Q And how would the employer that was going down to buy a book that would tell him how to get along better with his Mexican-American employees, how would he know what to buy if it just said "Management"?

A I don't know. If he was interested in managing Mexican-American employees, it looks like he would be interested in management, in all management.

Q And if he wanted to study those particular problems, then you would just kind of leave him in the bookstore to brouse around until he knew what was in the

books and not have to rely on their titles?

A Perhaps.

Q Why is it that there are only 450 Mexican - Americans at Texas Tech out of a total population of 21,000?

A Why is it?

Q Yes, sir.

A I would say that probably the main reason is that in the Junior High and High School levels, the Mexican-American is counseled that he is a good welder, that he will make a good farm hand, that college is no place for him, and this is reflected by the high number of dropouts in the local Lubbock School system, and take all of this whole area and the same reflection will apply. So, therefore, if there is not that many high school graduates, it stands to reason that you are going to have less people in college.

Money is another thing. You have got to have some financial ability to go to college, and just recently the Viet Nam conflict was another reason.

Q Do you believe that there was a higher number of Mexican-Americans inducted into that war than there were Anglos?

A No, I didn't say that.

Q All right. What did you say?

A I said, for example, perhaps the Anglos, being able to go to college, and having a father with a good bank account to get them into college, were deferred from the service, perhaps, whereas the average Mexican-American would not get that break.

Q Well, what is the make-up of Texas Tech College as far as what numbers of its students come from Lubbock County?

A I believe in recent years that number has increased. I would say maybe 80 per cent of those are probably from Lubbock, or the Lubbock Area.

Q Well, when you say "Lubbock Area," do you mean Lubbock County?

A No. No. I am talking about surrounding Lubbock Area, for example, Tahoka, Idalou, you know, Idalou, for example, is in Lubbock County. I am talking about the radius as is considered the Lubbock Area.

Q What percentage of the students at Texas Tech are out of state students?

A Percentage?

Q Yes.

A Which ones are you talking about? The Mexican-Americans, or the --

Q No, all?

A I couldn't tell you.

Q You just don't have any idea what that answer would be?

A No, sir.

Q Do you have any idea, realistically, what the answer would be as to what portion of the 21,000 out there now come from Lubbock County proper?

A No, sir. Not on the 21,000.

Q Do you have idea what portion of that 21,000 come from the two member legislative district that we are talking about here?

A No, sir, I don't.

Q The statement that you made about the affect of counselors on the dropout rate, is it your contention that the type of counseling that the Mexican-American child receives in the schools in Lubbock County actually contribute to his dropping out of school?

A Yes.

Q And how does it do that?

A Well, I feel like that very little encouragement is given. For example, in the whole West Texas Area, there are probably one or two counselors of Mexican descent, and both of those being in the Lubbock Public

Schools, and these two counselors are just of recent time. In other words, five years ago there was perhaps five school teachers of Mexican Descent in the Lubbock School System, and the population has not changed that much in the last five years.

Q How many applied five years ago?

A I couldn't tell you.

Q Do you know how difficult it is to get Mexican-American teachers or counselors in Lubbock?

A I understand -- I have heard it is somewhat difficult, because --

Q Do you believe that?

A Because of the attitudes, or the discrimination that existed here, and currently exists; some of the people from the Valley don't want to live up here and fight discrimination.

Q There is a lot of people in the Valley that don't want to live in Lubbock, period, isn't that right?

A Well, I would say if they felt they were welcome here, I think they would probably be willing to come to Lubbock. The salaries are more enticing here than they are in the Valley.

Q But you think that the -- first of all, you recognize that no matter how well motivated the Lubbock

School System might be toward getting Mexican-American Teachers or Counselors, that they would have a certain amount of difficulty in getting them for a variety of reasons.

A Not that much difficulty.

Q Well, then, why don't the people come?

A Perhaps they are not asked, I don't know.

Q And would that be an area in which you are just really without knowledge?

Do you know what the recruiting situation is among the Lubbock Public Schools?

A Yes, I have an idea. There is a Mexican-American in the Personnel Office.

Q And does that Mexican-American person make an effort to recruit Mexican-Americans, to your knowledge?

A To my knowledge, he goes up to the schools and sets up shop to recruit everybody, not only Mexican-Americans.

Q Well, is it your feeling that the kind of counseling given, say, by the Anglo Counselors, I am not talking about lack of encouragement, but I am talking about counseling where they would actually be telling people, "Oh, you couldn't make it in college, you better go be a welder --"

A Let me say this, not only --

Q -- or something?

A -- the counselors, but also the school teachers, you know? In other words, I am saying not only the actual counselor, but the school teacher in the classroom. Their attitudes and feelings towards the Mexican-Americans.

Q And what is your personal knowledge about that?

A What is my personal knowledge?

Q Yes, sir.

A I have talked to students that have told me: "My teacher said you can't make it in college, Johnny," referring to a Mexican-American using a fictitious name. "You need to get involved in vocational training. You are good with your hands. You are good in art."

Q In some instances, would that advice make sense to you?

A Not because -- to -- not to give a person that advice just because he is of Mexican descent. I don't think that makes any sense at all to me.

Q Well, I don't think anybody has asked you that question yet.

A Well, I am just telling you.

Q My question is do you think there are children,

Black, Brown, Anglo, Yellow, whatever, that might well be advised and be given good advice by a counselor who would say: "Look the world is full of college graduates, some of them aren't making as much money as people who don't have a college degree; you might ought to think of doing something that you do well such as things you do with your hands, or your art, and that kind of thing. You might be making a better choice," you know, whatever your color is, do something other than college.

Can you conceive a situation where that would be good, sound advice?

A Yes, I can.

Q Do you know, of the children that you have talked to, do you believe that the advice given them was bad advice?

A Yes, I do.

Q Why do you believe that?

A To give you some specific examples --

Q Please do.

A -- some of these that I am referring to are now going to college and making passing grades.

Q Well, does that end the argument, as far as you are concerned?

A As far as I am concerned, this child, had somebody

else not cared, would not have gone to college, consequently not the -- not have the earning power, irregardless of what you might say about the trades, it is proven through census, and everything else, government figures say that college graduates make more money, and this particular person will make more money because this particular person is in college and can make it.

Q Who was this particular person you are talking about?

A There is so many I can't tell you one.

Q You can't think of one?

A No, because I don't have that right here in front of me.

Q There is not one name that occurs to you right now?

A How is that?

Q There is not one name that occurs to you right now?

A No, because I have all kinds of people --

MR. KORBEL: I would like to --

THE WITNESS: Lets go off the record.

MR. KORBEL: No, we can't.

THE WITNESS: Off the record?

COURT REPORTER: Are we on or off the record?

MR. YORK: I want it on the record.

THE WITNESS: I would like to go off the record.

MR. KORBEL: Lets go off the record for a second.

THE WITNESS: I can give him a whole bunch of names, if that is what he is interested in.

COURT REPORTER: I can't go off the record unless you both agree, I don't think.

MR. YORK: That is what I thought.

COURT REPORTER: So we are on the record.

MR. KORBEL: Can we go off the record.

MR. YORK: Okay, lets go off the record.

[Off the record discussion.)

MR. YORK: Back on the record.

A Back on the record. I can give you a specific name right now.

Q (By Mr. York:) All right.

A This young man was a drop out of the Lubbock Public Schools. He was told that could not make it in college, there was no way he could qualify. He quit

college -- I mean quit the Lubbock High School.

He later was drafted into the service, went into the service, came back out, and finished the Texas Tech Program in two and a half years. Now, he has a Master'd Degree and is currently a PHD Candidate, and this guy is Raymond Morales, and he can be contacted. I can give you his phone number, if you want it.

Q Okay. We can probably find him up at Amherst.

A If you want to get specific about one guy.

Q All right. And is that as specific as you can be; on that one guy?

A On that one particular one, yes. Right-off.

Now, if you want more, I can get you more.

Q All right. He completed college after having been off in the service for several years?

Did he begin college after having been off in college for several years?

A Yes. Of course, he came back and was married and working full time, and he finished the program, I believe, in two and a half years, Dean's Honor Roll.

This was a person that couldn't make it, that was told he couldn't make it.

Q And did he drop out of high school?

A Yes. I would say he was forced out.

Q You would say he was forced out?

A Yes.

Q By whom?

A By the system, the school system telling him he couldn't make it.

Q Couldn't make it in high school?

A Yeah. You are not -- you know, you are not -- you can't make it. I mean you don't understand.

Q Your feeling is that the school system, or some part of it, told him he couldn't make it in high school?

A I think it started in the first grade, because he didn't speak any English when he went to the first grade.

Q Well, who told him in the first grade that he couldn't make it?

A Well, it is very obvious, if he was speaking Spanish and the teacher was speaking English, he was given a negative self-image right off the bat, and at that time they didn't have any bilingual teachers.

Q Well, what were his high school grades like?

A I don't know. I am sure we could find them.

Q Do you know why he dropped out other than supposition that people told him something bad at the high school?

A I think he was behind. In other words, he had failed at the elementary level. Of course, he was older than the normal child, I think.

Q Then he dropped out of school, and like many Anglos, Browns, Blacks, he went off to the service and got his high school certificate through a service connected program, and got married -- he didn't get it through the --

A No, he never finished high school.

Q Oh, I see. He didn't get a --

A To my knowledge he still doesn't have a high school degree, but he is going to have a PHD.

Q But that --

A In education, by the way.

Q But they let him in out here at Tech without a high school degree?

A I think that the test out there, that they give everybody, I think he scored high enough on it to get in.

Q All right. But he went off, went through the service, got married, and came back and is completing college?

A Uh huh.

Q Now, that is a story you hear about Blacks, Browns, and Yellows, and everybody else, isn't it? The

guy that had a hard time in high school and went off and got straightened up in the service and came back and got married and settled down and went on and completed his work.

A I haven't heard any.

Q You never heard of that before?

A You know, I have heard of this one. I don't ...

Q Okay. On the Texas Tech letter that you mentioned --

A Uh huh?

Q -- the letter relating to speaking Spanish by employees was apparently retracted without any great difficulty when you raised the problem with the administrative people out there?

A That's right.

Q There wasn't any problem about doing it, they just said they would do it when you pointed it out to them?

A That's right. My contention is that I shouldn't have to go around pointing these things out. They should know better.

Q Well, you would hope that everybody in every big organization like Texas Tech would have the same level of motivation and concern about every problem that

the President would, but you know in a big organization, whether it be an Anglo, or Black, or Brown, or whatever, it doesn't work that way, does it?

A No.

Q I would be surprised if there weren't people within the LULAC Organization that don't do things exactly like you would want the organization to do things.

A That is probably right.

Q But when that is pointed out to you, it would get fixed, and you would be glad somebody pointed it out, I suppose?

A That's right.

Q Okay. What is the situation here as far as the schools are concerned in the sense of their segregation or integration, or whatever? Is there a free transfer between the schools, if a kid that is one of the incidences that you have described, is in a pretty much predominantly Black or Brown School, if he wanted to transfer, living in the same community he is in, but if he wanted to transfer to a school that you have characterized as principally Anglo, can he do that under the rules that they operate under?

A I believe they have a provision for that, where you apply for a transfer.

Q Okay. Are you aware of any recent problems in that, that is, where a particular child would seek to make a transfer like that and somehow be blocked at the schoolhouse door and prevented from doing that?

A No. I am not aware of that.

Q All right. Well, is it, then, that it is more or less the housing pattern and the location of the schools, is that really what contributes to the fact that the schools wind up being predominantly one way or the other, or not mixed up as well as you, for instance, might think they should be?

A That is probably true.

Q You talked a little bit about the housing situation in terms of believing, apparently, that there still is some kind of -- sort of almost under the table sort of discrimination against Browns in housing, right?

A (Witness nodding head affirmatively.)

Q You have to say "yes" or "no" --

A Yes.

Q -- so he can write it down.

A I am sorry.

Q It is kind of hard to remember that sometimes. We lawyers sit here and get accustomed to it, and you don't do this every day like we do, and I understand that.

A Right.

Q If I understood what you described awhile ago, it was a situation where there would be a vacancy in what is now perhaps a Brown Area, or Black and Brown Area, or whatever, and if a realtor, a real estate man, had an opportunity to show a house to an Anglo, he wouldn't take him out to that area, he would take him to what you think of as the Anglo Area?

A That is correct.

Q And the converse would be true, if a Brown comes up, or a Mexican-American comes up, he would probably wind up taking him to the Mexican-American Area as opposed to taking him to some Anglo Area?

A That is correct.

Q All right. Now, are you aware of any other form that discrimination in housing takes in Lubbock now?

A I would say no.

Q All right.

MR. KORBEL: Can we go off the record just a second? I don't think he understood the question.

MR. YORK: Well, I don't want to go off the

record and make him understand the question. If you want to straighten him up, why go ahead.

MR. KORBEL: Okay. Are you including when the realtor shows a house both for the purposes of sale and for the purposes of rental, or are you distinguishing between sale and rental?

MR. YORK: It covered both.

MR. KORBEL: Okay.

Q (By Mr. York:) If your answer would be -- if that distinction makes any difference to you, please explain it.

A Well, what I would like to say, of course, you lawyers have a good way with words, and I feel like tnere is discrimination, and if I said there wasn't in that last answer, well, I retract it.

Q No. You didn't.

A I would ask you, or the State, or anybody, to call any realtor at random, and go out and tell him you are interested in a house in that area and see what they say to you. I would challenge you, or anybody else.

Q Okay. But as I -- I don't think you did answer the question awhile ago to the effect you thought there was not discrimination --

A Okay.

Q -- I understood you to say that you thought there was.

A Okay.

MR. KORBEL: I am concerned as to what other types -- besides sales and rentals, what other types of real estate discrimination would there be?

THE WITNESS: There is other types of real estate discrimination. In housing, for example, they built a multi-complex out here with government money primarily for Blacks and for Browns.

In other words, we -- the -- and the way you do that is you build it out in the area where Blacks and Browns live, and you put in a 300 unit apartment complex out there for low housing -- for low rent housing, rather than put it in Southwest Lubbock.

I challenge anybody to try to put one of those complexes out there, and see if you can get it put in.

MR. KORBEL: All right.

Q (By Mr. York:) Do you really contend that that is -- that is Federal action, or is it?

A No, it is local.

Q That is purely a local deal?

A Sure, it is local. It's zoning.

Q Does it have Federal money in it?

A Yes, it has Federal money in it.

Q Does that have to have some approval out of some United States Government Agency in order to get that done?

A Yes. I believe that is true.

Q And it is your feeling that the United States Government is participating in that?

A I didn't say participating. Perhaps they are condoning it.

Q Uh huh.

A Or allowing it.

Q Well, is the purpose of that to provide housing for Blacks and Browns, or is it the purpose of that to provide housing for the poor?

A I believe, in their papers, they must say for the poor, and they must say that it will be open to everybody, but it is where the Blacks predominantly live, and you are not going to get any Anglos to move into

those complexes.

Q Who are the predominantly poor in Lubbock County? The Blacks and Browns?

A The Blacks and Browns, I would say.

Q And wherever you put that housing, wouldn't you expect the predominantly poor to make use of it?

A Yes, if that was for the poor.

What I am saying is that you couldn't put that housing out in Southwest Lubbock. The local government and the local structure would not allow you to do it.

Q Well, that would be the purpose for putting it in Southwest Lubbock?

A To integrate the schools, for one thing.

Q Would there be any purpose other than that?

A And to have access to some of the shopping facilities - or better access, I should say.

Q Is access poor in the places where these complexes have been built?

A I would say yes.

Q In what respect?

A Transportation. Some of the poor don't own cars so they have to rely on the bus transportation, and that costs more money. And some of the sales that take place, you know, where you could save, bargains, and stuff like

that, are predominantly in the Southwest Area of Lubbock.

Q Well, where -- I mean, can you think of one specific housing unit? Does it have a name?

A I don't know if it has a name, but --

Q Or a street number?

A Yeah, it is on East 4th Street, I think the mayor of the city as the one that put it in.

Q Okay. How big is it?

A 200 units plus? I really don't know.

Q And where would you think would be a better spot to put that?

A I would say across the street from the South Plains Mall.

Q Okay. What is across the street from the South Plains Mall?

A A vacant area.

Q Okay. How is that zoned?

A Part of it is commercial and part is residential and apartments.

Q How much space is there over there?

A There is plenty of space for that complex.

Q What efforts did you make at the time that was happening to see that it got placed over there?

A I didn't make any effort.

Q Why not?

A Because I couldn't get anywhere. I knew I couldn't get anywhere.

Q Well, how did you know that? Without having tried?

A Well, I would imagine that by the time this thing gets built, it is already done. You see, there is no common knowledge of this thing until they start building it, and when they start building it, it is too late.

Q Well, don't they have to have a lot of programs submitted to the Federal People who are going to approve the monies, and so on, before they do all that?

A I couldn't tell you. I have never built a complex.

MR. KORBEL: Counsel, maybe we can stipulate that the same procedures were followed in the Blancher Housing Project in Austin, and the same type of discrimination I think he is talking about, or that he is referring to, were probably found existent in the Blancher Housing Project. I think we can also stipulate, if you want to, that any of the new regulations that HUD has came out with referring to the old policies of location, of

allowing location, can be put into the record. I would be glad to do that, if you want to. But it seems to me we are just getting repetitive here. He says: "Yes, there is property on that side of town that is available. Yes, it could have been put there."

I don't know where we are going. I am objecting --

THE WITNESS: Off the record. Maybe you ought to ask Mo Turner if he could put it over there.

MR. KORBEL: He can't go off the record.

THE WITNESS: You know, he is the guy that put it in.

MR. KORBEL: We can't go off the record.

You see, we are getting repetitive and I don't know where we are going, and I am objecting on the grounds that --

MR. YORK: Well, if you are objecting on the grounds that you don't know where we are going ...

MR. KORBEL: I am objecting on the grounds I want to go home. I want to go home.

MR. YORK: I second that motion, but I don't think it is a competent objection.

MR. KORBEL: I think, if you want some official objection, that we are being -- we are duplicating the testimony. He has answered the question several times. I think it is irrelevant and immaterial, and I think that it has been answered.

MR. YORK: Okay.

Q (By Mr. York:) Now, do you know of any efforts made by any individual Brown, or any groups, such as LULAC, or any effort on the part of any Black, individually, or Black Groups, to influence the placement of these housing developments that you have talked about?

A No, I don't.

Q All right. What form does the social discrimination that you have talked about here, take, other than the fact that there aren't many Browns or Blacks in the Rotary Club or the Kiwanis Club, the JayCees and the Lions Club?

A Well, feeling is a very hard thing to describe, and for you to feel what I feel, you have to be Brown. You have to live Brown.

And to give you an example of social discrimination; in this fair city, my son was all excited about going to

Indian Tribe one time, and I went with him, and I took him, and we --

MR. KORBEL: Just a minute.

A This was a part of a YMCA Program.

Q Go ahead. Do you want some coffee?

A And it was sponsored by -- no, I will take water.

Sponsored by Lubbock United Fund, which we all contribute to, and in this group that we were assigned to participate with were ten to twelve Anglos, my son and I.

The meeting was very informative.

After the meeting, the groups broke into smaller groups, and that is the group that I make reference to, that involved perhaps ten or fourteen fathers and their sons.

I invited the group to meet at our home, at the coming meeting, because we were to divide into groups and form tribes.

No one accepted the invitation.

And after about two minutes of silence, some other person came forward and invited the group to their house. Immediately everybody responded and said: "Yes, we will be

"there."

So, even though, after that incident I probably would not go to these people's houses, I felt like that they were offensive to my son and I; consequently we did not join that organization, and I would venture to say that there is probably not that many Mexican-Americans in this type of program.

Q Well, let me -- and I don't mean to dwell unnecessarily on something that is obviously a personal subject to you, and something that you have got a lot of concern about, but No. 1, would you concede that it might be possible that this group would have reasons other than prejudice against Mexican-Americans for not going to your house?

Is that a possibility?

A I would say no.

Q You can't think of any set of circumstances which might make them not want to come to your house other than the fact they didn't like you because your skin was brown?

A In that particular instance.

Q Were these all Anglos?

A Yes.

Q And to follow it a little bit further, you -- I

take it there wasn't anything bad said to you then, you just said: "Hey, Gang, come over to my house," and they just all sat there; and somebody else said: "Well, maybe you better come over to my house," and that is what they did?

A This is the reason that I was painting the picture for you.

Q Right.

A There was about two minutes of silence.

Q Right.

A And that would tell me -- that told me that: "We don't want to meet at a Mexican's house."

Q Well, nobody said that, though?

A No.

Q And your reaction to that was to drop out of this group?

A That's right.

Q For you and your son?

A That's right. I did not want my son further embarrassed by this group.

Q But, is there a possibility in your mind -- did you know any of these people before that, the Anglos involved?

A Perhaps by name.

Q You hadn't really gotten acquainted with them, though?

A At that meeting. Yes, just at that meeting.

Q Do you think it is a possibility that had you sort of said: "Okay, fine, we will go to the other fellow's house this time, and maybe next time, or the time after, we will invite them back to my house." Suppose you had done that, and got to know them better and they got to know you better, do you think it is a possibility that the next time you said that, they might have said: "Sure, Froy, we would like to come over to your house?"

A I couldn't say.

Q Okay. What other forms, if any, can you describe this social discrimination that you say still exists in Lubbock County?

A Well, for example, the Country Clubs in town, you have to have a sponsor to get into one of them, and I happen to know of one Mexican-American -- I retract that. This person is a Mexican Citizen, and he is married to an Anglo woman, and he is well liked by many people in the community. This person had fear that he would not be accepted in the Lubbock Club, so, consequently what he did, he picked out some Anglos that he felt would not turn him down, and asked these Anglos to support him

and make sure that he got in, because he did not want to be embarrassed, and he talked to these people, they were influential people, and they got him in. He is a member of the Lubbock Club.

As far as I know, he is the only Mexican, or person of Mexican descent, that belongs to any Country Club.

And up until recently the Hill Crest Country Club, for example, would not allow Mexican -- people of Mexican descent, into their club.

Q But has that changed?

A I believe it has, through the efforts of perhaps some Anglos with a little more open mind.

Q I guess --

A There is one -- that I know of, there is one Mexican-American in the Hill Crest Country Club.

Q Do you know of any that have applied and been turned down?

A I believe that they probably would not apply, for example, would not apply for fear of getting turned down.

Q Do you know of any that have applied and have been turned down?

A I couldn't tell you, no.

Q All right. And would that be true of all the Country Clubs in town? I don't know how many there are, but as far as you are concerned, do you know of anybody, any Mexican-American, that has applied to any Country Club and been turned down?

A I know of none.

Q All right. I am sure you wouldn't be surprised to know that there would be a large number of Anglos that have applied and have been turned down?

A I couldn't tell you that.

Q It wouldn't surprise you, though, would it?

A I couldn't say, because I don't know.

Q But you wouldn't figure that they would just let everybody with a white face into the Lubbock Club, for instance?

A I believe they would if he had money.

Q Do you really?

A Yes, I do.

Q Well, I don't.

A Money is status.

Q Yeah, status. If it is like any Country Club I ever saw, it had something to do with both of them, whatever color you were. There is plenty of them I can't get into because of problems on both accounts.

MR. KORBEL: Of the three, which one are you talking about?

MS. LEVATINO: Yeah.

Q (By Mr. York:) What about the public facilities such as -- we are talking about housing, in terms of rentals, if a Mexican-American just struck out on his own and wanted to rent any place in town, and he had the money to rent, and he just walked up "cash on the barrelhead," could he rent it to live in?

A Not necessarily.

Q Where could he not rent?

A There has been a specific instance right close to the Campus --

Q Okay.

A -- of an individual that refused to rent to this young lady that was working on her Master's Degree at Texas Tech, and that came to my attention by this young lady, and she is no longer here. But she was refused to -- and she was told that she could not rent the place because she was a Mexican.

Q Was that -- are you in a position where you would get complaints like that, where like Mexican-American people here would probably come to you if they had a complaint

like that?

A I don't get all the complaints, but I get my share of them.

Q All right. How many others have you gotten in the last year, say?

A Just to give you an idea, what happens is when you step forward and you say: "I care what happens to people;" I got three calls last week on one type of complaint or another; and this week, so far, I haven't gotten any, but I do get my share of complaints.

Q On the question of housing, where a Mexican-American has gone some place, and he or she had the money to rent the place, and was turned down, how many complaints have you gotten recently?

A Complaints, none.

Q All right.

A Besides that one girl I mentioned.

Q The one you mentioned.

A Yes.

Q What about the public facilities such as theaters and restaurants, and that kind of thing?

A I got a complaint two weeks ago, one of the local clubs; two Mexican-Americans were turned down. Freeman's Club.

Q Which club was that?

A Freeman's Club.

Q I am not familiar with Lubbock, so I would ask you what sort of place is that?

A That is a public club where you go in and buy beer and sit down and drink it.

Q Okay. What other complaints besides that one?

A Recently, none.

Q All right. What -- your job, now, you are in the life insurance business?

A That's right.

Q Have you recently run for political office in Lubbock?

A I ran for the School Board in 1972, April.

Q And I take it you didn't win?

A No, I didn't win.

Q Now, is that election carried out within the City Limits of Lubbock?

A That's right.

Q Is that the way that works?

A Yeah. At large.

Q All right. How many members do they have on that?

A On the School Board?

Q Yes.

A There are seven School Board Members.

Q Did you run against a Black, Brown, Anglo?

A I ran against three Anglos.

Q Was any of them an incumbent?

A No.

Q Was there a run-off?

A No run-off in School Board Elections in Lubbock. The highest number of votes wins.

MR. KORBEL: It is a plurality system in School Boards.

MR. YORK: I see.

Q (By Mr. York:) How did it break down in terms of voter turn-out?

A What do you mean?

Q Well, I mean --

A You mean how many votes were cast? Approximately 8,000, better than 8,000.

Q Did you finish second, third, fourth?

A I finished second, approximately 250 votes behind.

Q You finished within 250 votes of the winner?

A That's right.

MR. KORBEL: In a three way race?

THE WITNESS: Four. Four.

MR. KORBEL: Four, yeah.

Q (By Mr. York:) Did the other three have names which were clearly what we would think of as Anglo Surnames?

A Yes, they did.

Q So there was no mistake about the fact that you were the only Mexican-American in the race?

A That's right. In that particular race. There was another Mexican-American running for another place.

Q Okay. How far behind you were the other two Anglos?

A I really don't know. It seems like they were way behind.

Q All right. Who won the race, what was the fellow's name?

A Garnett Reeves, Jr.

Q And in the other, was there only one other Mexican-American in the race, in the School Board race, in other words, generally?

A Yes. He was running for another place.

Q And was he running against an incumbent?

A Yes, he was.

Q And how did he come out?

A He lost.

Q By what kind of a margin?

A He got beat considerably worse than I did, but he got approximately the same number of votes that I did, which would reflect that a lot of people that voted for him voted for me.

Q It would sound like you must have gotten a fair number of some kind of votes other than Brown votes to do as well as you did?

A Not necessarily.

Q Well ...

A In the Anglo Boxes, primarily Anglo Boxes, I got beat real bad.

In the Mexican-American boxes, the reverse happened.

Q Well, you had some Anglo support, I suppose?

A Yes, I did.

Q It wasn't a totally polarized thing?

A No, not completely, I wouldn't say.

Q If you had 8,000 people voting, out of that 8,000, how many were Mexican-American votes?

A Probably three thousand, or close to three thousand.

Q And is that -- would that be representative of the Mexican-American population in the City?

A What? The 3,000?

Q In other words, that is nearly -- what does that amount to? That is up around 40 per cent of the vote, or something?

A I believe it is better than forty.

MR. KORBEL: Of the turn out for that election.

A Of the turn out for that election, yeah.

Q Now, are there, among registered voters in the City, is it 40 per cent Mexican-American?

A No, it is not.

Q Was there a particularly big Mexican-American turn out in that election?

A I would say that the Mexican-American turn out was five to one, if you want to use ratios, between the Anglo vote and the Chicano vote. The Mexican-American voted five to one to each Anglo.

Q Then they really came out?

A Per registered, yes, sir.

Q And what was the reason for that?

Is that unusual in elections in Lubbock, or in Lubbock County?

A What do you mean, it was unusual?

Q Well, do you ordinarily vote Mexican-Americans five to one over Anglos --

A No.

Q -- in Lubbock County?

A No, not in this particular case. The Chicanos outvoted the Anglos five to one, and yet we lost.

Q Okay.

A For the simple reason the numbers aren't there.

Q All right.

A At large, voting at large.

MR. KORBEL: We haven't got enough people to vote five to one, that would be 15,000 against 3,000.

THE WITNESS: Now, I am talking about per registered voters. In other words, there are so many registered voters that are Spanish Surnamed, and then there is so many registered voters that are Anglo Surnamed.

MR. KORBEL: You had a big turn out.

THE WITNESS: That would be an estimate.

MR. KORBEL: You had a big turn out?

THE WITNESS: Yes.

Q (By Mr. York:) Were you involved in any work of any kind besides LULAC and besides your life insurance business now -- are you involved with the administration of any Federal Programs in this area?

A Not administration, I am on the Board of Directors of several programs.

Q Which are what?

A LEARN, Inc., which has the Educational Talent Search Program, and E.S.A. Programs, Educational -- both are educational programs. I am also involved in the Manpower Program, Chairman of the Board.

Q Well, is there one of those -- I don't know, I would have to look at my stuff, but without getting that out, is there one of those that there have been some controversy about the insurance sales to the members of that group, or anything?

MR. KORBEL: I object to this line of questioning. There have been some unsubstantiated

charges, I understand, but certainly I just don't see where this is going to lead us any place.

I think we can stipulate for the record that there have been some unsubstantiated charges against Mr. Salinas, but I don't see why this is a proper impeachment, or I don't see where, as I say, it leads us anyplace.

MR. YORK: Well --

MR. KORBEL: It is irrelevant and immaterial. What is the purpose of this line of questions, Counsel?

MR. YORK: I don't have to tell you what the purpose of a line of questioning is unless you are going to put on a robe and-

MR. KORBEL: I am making an objection at this point.

MR. YORK: Well, you are entitled to make your objection.

Q (By Mr. York:) The point of it is, now, we have talked about your election, and as Counsel has suggested, apparently there has been some kind of a controversy, I don't really have enough information to know what it is all about, but I would like to know when

that controversy began.

In other words, did it have its beginning at a time which had some bearing on your election, so that it was going on at or about the time your election was coming up, or before that, or after that?

A I would like to clarify your word "Controversy."

Q Well, that is just the word that I have used, and if you can think of a better word to describe it, go ahead.

A There has been one letter written of allegations by one person, and I say "allegations," and this has been done within the last month.

Now, we have, as Board of Directors, been attacked by this one letter, and I happen to be the Chairman of the Board.

There is no truth to these allegations.

The Department will find, when they investigate, that all these allegations are false.

Q I understand what the contention made in that letter was, something to the effect that insurance policies sold to members of the group somehow, were sold on an individual basis and not on a group basis, and that has cost people more money, or something to that effect.

Is that part of what the allegations are?

A That is part of the misallegations.

Q I understand you don't agree that it is true, and I have no way of knowing whether it is or not, I am just asking you about it to relate it to this election process we are talking about.

A The letter did not reflect that at all.

That -- what you are saying was picked up off of a TV Station broadcast.

Q The letter didn't make any statement about that end of it?

A No, sir.

Q It made no statement about your selling insurance on an individual basis to people instead of on a group basis?

A It made statements --

MR. KORBEL: I am objecting to this entire line of questioning, it is irrelevant and immaterial, and I don't see how -- if this is for the purpose of impeachment, I don't see it is relevant, and I object.

MR. YORK: Okay.

MR. KORBEL: And if you are basing some -- strike that.

Q (By Mr. York:) What was the actual date of the election in '72? Would that have been in May?

A April 2nd, first Saturday in April.

Q First Saturday in April of '72?

A April 1st. Pardon me, April 1st.

Q Okay. Had any of this controversy, or allegation, or mis-allegation, whatever you want to call it, had any of that come to light before the election in April of '72?

A No.

Q Okay. That is what I was -- the point I wanted to get to was whether or not any of that might have affected the outcome of that election, and to your knowledge, none of that was public knowledge or was not being banded about publicly prior to the election?

A No.

Q All right. When you ran for the School Board, how were you selected?

Did you just decide you wanted to run, or did you get picked by some slate-making group, or how did you get to run?

A I was asked by a group of friends to run.

Q I take it it was just an informal kind of thing?

A Informal, yes.

Q They didn't meet in some smoke filled room - like this one is getting to be -- and say: "We have picked you to be our man," and that kind of thing?

A No.

Q Okay. To your knowledge, were any of the candidates selected that way, Anglos?

A Not that I know of. I couldn't say.

Q It sounds to me like it was kind of a free-for-all, like in the race you ran there were three Anglos?

A And the irony of that election was that I was the most qualified candidate, and I lost.

Q Did you know that there is not a single candidate that has ever lost that would not make that same statement?

A That is your opinion.

Q I have never heard one that lost - and I am joking with you a little bit, but everybody that has ever lost -- I know our Attorney General thinks he was best qualified to be Governor in 1968, but the voters thought otherwise.

A The problem is the voters don't know everything.

Q That is true exactly.

Do you know the fellows that are in your delegation here now, your two member district?

A Yes, I do.

Q And what are their names, just for the record?

A R. B. McAlister and Elmer Tarbox. I know Mr. McAlister a little better than I know Tarbox.

Q Are they both guys that, like I say, have you talked to them in their offices here?

A I have never talked to Mr. Tarbox in his office.

Q Have you talked to Mr. McAlister?

A Yes, I have.

Q Do you find them to be responsive to you? I mean if you call them up with a problem, can you get to them, or get on the phone with them and describe what the problem is?

A Mr. McAlister, like I say, I have talked with him in his office, and I feel like perhaps he is responsive.

Q What about this last session down in Austin with the legislature, of course, there were a variety of issues which were being debated by the legislature which I know concerned the Mexican-American Community; how did those two guys respond to those issues, as far as you are concerned?

A I haven't checked them specifically. I believe Mr. McAlister, at least, voted for some of the bilingual education, adult education, and things that are problems

and issues that concern all the people, not only the Mexican-Americans.

But there is a difference in going along with and actually introducing the issue and promoting the issue, for example.

Q I would agree with that.

A You know, it is real popular to say: "I am for bilingual education, I have some Mexicans out there in my district, I better go along with that, but I am not going to fight too much for it because my Anglo Constituents might not like it."

Q But from what you have said, you apparently don't have any quarrel with the degree to which these two guys fought for bilingual education?

A In my opinion they didn't fight for it at all. They just went along with the tide.

Q Do you know that? Do you know what they were saying on the Floor of the House and in Committee, and everything?

A I couldn't say that I know that. I would imagine if anybody fought for it it would be Mr. McAlister.

Q Okay. So what you would say about whether they fought for it, or not, is more based on a kind of a feeling generally about what kind of guy they are, and that

kind of thing, as opposed to knowing what they did down in Austin?

A That's right. I don't know the record, certainly.

Q Okay. How long have they been in office?

Pardon me for not knowing that, but have they all been in for a long time, or ...

A I believe Mr. Tarbox has been there for quite some time. Mr. McAlister, I believe, has only been there about six years, or something like that, six to eight years, maybe less.

Mr. Tarbox, I understand, has been there longer, and it is common knowledge that he promised some people that he would not run any more, if no one would put any strong opposition up this past year so that he could get his retirement. That is common knowledge.

And certainly, I am in favor of the man getting his retirement pay after serving some time for us, but I feel like this is a poor way to keep maybe stronger or better candidates from running for that position.

Q But apparently nobody did run against him?

A Not any strong opposition, no, because of his commitment not to run this coming year.

Q Well, did McAlister campaign among the Mexican-

American Community?

A I believe he did through radio and mailings, and probably community visits, and stuff like that.

I don't think Mr. Tarbox did.

Q He probably didn't campaign much at all, it sounds like.

A Well, no, he had a Tech Student for opposition that was part Indian, you know.

Q Well, being from the University of Texas, I can understand how a Tech Student would get beat pretty easily. All right.

A I also admire the University of Texas.

Q They kind of had a hard time a couple of times this season, but they are getting better, maybe.

I have got just one last question -- are you ready to quit?

A No, Counselor.

Q I don't mean give up all your beliefs and everything, I just mean ready to quit this question and answer thing.

A I will give up when I die.

MR. YORK: Well, I believe that. And that is all the questions I have. Thank you.

FURTHER EXAMINATION

By Mr. Korbel:

Q I have got a couple of questions, just to straighten matters out.

First of all, we have had testimony, now, from depositions, and all, and also from your testimony, as to the small percentage of students, Mexican-American Students, from the Lubbock Independent School District who go on to college.

Is there any reason why a Mexican-American Student should be counseled not to go on to college?

Is there any reason why they don't go on to college?

A As I stated before, there is no reason for these people to be encouraged not to go to college --

Q Uh huh.

A -- I feel like it is an outright act of discrimination that these children, because they are Mexican, or of Mexican descent --

Q Uh huh.

A -- are encouraged to go to other things besides college, and by this I mean vocational training or shorter

term trade schools.

Q Uh huh. Referring once again to the book called "Managing Mexican American Employees", I am not sure if you understood the question. He was asking you is it possible to construct a title which would convey the same meaning without being, in your feeling, offensive?

A I would say that a title, if you wanted to identify it as a book relating to Mexican-Americans, it could be "Mexican-American Employee-Employer Relations."

Q Uh huh. As it is now, what does that title suggest to you?

A It suggests to me that Mexican-Americans are not good enough to be employers, but only employees, and could not be in management positions.

Q Uh huh. Now, there was some talk about this low rent housing, and housing for the poor; is there any reason why the poor would rather live in the minority areas and would not rather live in the more affluent areas in town?

Is there any reason why this housing should be put in the poor areas?

A Not any reason that I know of specifically.

Q I see.

A Perhaps the poor might feel more at home, but

that would be strictly an opinion.

Q. And had this Public housing been located in other areas of town, it would have, in your estimation, integrated the schools?

A. It would have certainly helped.

Q. And would it have helped a great deal in the patterns of residential segregation existing in this town?

A. Yes, it would.

Q. Now, there has been some talk about your race for School Board election, and I am sorry I didn't bring that out on direct examination, but in that election there were three, yourself, another Mexican-American, and a Black running for office, is that correct?

A. Yes, that is correct.

Q. And --

A. You are referring to the 1972 election?

Q. Yes, The 1972 election. Can you contrast the voter turn-out in that 1972 election with previous School Board elections?

A. Yes, I can. The 19 -- I would also like to refer to the 1970 election.

Q. All right.

A. At which time I was also a candidate for the

School board.

Q. All right.

A. The voter turnout in 1970 and '72 election was considerably higher than it had been in prior elections.

Q. Yeah.

A. For example, in 1968, the first Black ran for School Board.

Q. Uh-huh.

A. And he was pitted against two Anglos.

Q. Uh-huh.

A. The Black lost. The Anglo that won received 2,344 votes, if my recollection serves me, which is seven to eight hundred less votes than I received in either one of my elections, and he is presently the President of the School Board. And I lost both of my elections with 800 more votes.

Q. Would you say from your experience in running for office, and your experience in living in Lubbock, and in the area, that it was the fact that there were three minorities running for the School Board in the '70 election, and the minorities running in the '72 election; the minorities running for the School Board in the '70 election, which brought out the big turn out?

A. The higher turn out in the Anglo Community.

yes

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Q. I see.

A. And definitely the higher turn out in the minority community.

Q. I see.

A. I feel like some people came out to vote against rather than for.

They didn't study the issues, they came out to vote against the minorities --

Q. I see.

A. -- to keep us from getting representation on the School Board.

Q. That is your feeling?

A. That is precisely my feeling.

Q. Okay.

A. One thing that is interesting; in the 1972 election, I say without reservation I feel like I was the most qualified candidate for the School Board.

Q. Uh huh. Okay.

A. I had attended School Board Meetings for about five years prior to that --

Q. Uh huh.

A. --and we had a meeting that involved the classroom teachers association, and at that meeting, when we were addressing the issues, the school teachers at the

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meeting --

Q. Uh huh.

A. -- reflected their liking, or their being pleased with my addressing of the issues by applause, and I received seven applauses, and none of the other School Board Candidates received any type of ovation.

Q. All right.

A. And this is on record.

Q. There was mentioned, and I think almost jokingly, the 1968 Gubernatorial Election in Texas.

A. I believe it was Preston Smith.

Q. And do you know who the ownere of the Clifton Theater and the Loral (Sic.) Theater was, that you testified refused admission to Mexican-Americans in the early '60's?

A. The Theaters were the Clifton and the Lindsey.

Q. Clifton and Lindsey, I am sorry.

A. Okay. Located in Lubbock, Texas, and Mr. Preston Smith was the owner of those theaters.

Q. And prior to his running for Governor, was he State Representative representing Lubbock County?

A. I believe he was Representative, and at one time

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was Senator, State Senator.

Q. And was he State Representative at the time his theaters were prohibiting Mexican-Americans from attending them?

A. I would think so because he was there about twenty years.

Q. Do you suppose that a man that runs theaters that doesn't allow Mexican-Americans to attend could adequately represent Mexican-Americans?

A. Definitely no.

MR. YORK: He didn't get re-elected, did he?

THE WITNESS: Preston Smith? Many times.

MR. YORK: Oh, sometime in there. I don't remember when it was.

Q. (By Mr. Korbel) Now, there was some talk about the transfer policies, the free transfer policies among schools in the Lubbock Independent School District.

Does the school district provide free transportation for these students that do transfer?

A. No, they don't.

Q. Do the students have to provide their own transportation?

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A. The policy states that he does have to provide his own transportation.

More so, this policy, even though it exists, is not encouraged nor heavily publicized.

Q. I see. In any case, has it resulted in any substantial diminishing of the one-race schools we find in Lubbock County?

A. No, it has not.

Q. Okay. Now, there was some testimony that there is some -- at least some idea that it is difficult to obtain Mexican-American -- qualified Mexican-Americans as teachers.

Do you know if that is -- strike that.

If the Federal Courts have found that -- well, strike that.

I don't -- I guess I don't have any --

A. In reference to qualified Spanish-Americans?

MR. KORBEL: I don't have any further questions.

MR. YORK: Let me ask you just one other and see what your answer to it would be.

FURTHER EXAMINATION

By Mr. York:

Q. Suppose you had a situation in Lubbock County where, for one reason or another, the Black, Brown and Anglo population just got totally mixed up; in other words, so that they were equally distributed throughout the county. In any one census tract that you looked at you would find the same percentage of Mexican-Americans in that census tract that you would find in every other census tract within Lubbock County --

A. You mean throughout the county?

Q. Right

A. Every census tract?

Q. Right.

A. Every block?

Q. Right. Every block.

A. All right.

Q. Now, that would solve -- if you left your school boundaries the same way, then, presumably you would have your schools set up where there wouldn't be any difference in percentages of students, or student populations in those schools, presumably. Do you see what I mean?

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A. The population of the schools would reflect the ethnic make-up, is that what you are saying?

Q. Right.

A. Probably so.

Q. All right. In that circumstance, there wouldn't be any logical reason to think about having a single member district would there, for -- as far as electing your legislators to go to Austin?

A. I don't think I understand your question. Would you please rephrase it?

Q. Well, do you see what I am asking you?

In other words, if you had -- if the county was totally homogeneous in the sense that Blacks Browns, Mexicans, everybody, were spread out evenly throughout the county, if you went to the single member system for electing your legislators to go to Austin, this wouldn't really affect the chances of the Blacks or Browns to get elected, would it?

MR. KORBEL: He is asking, I think, in the optimum society, with no racial discrimination, would it make a difference if you had single member districts or multi-member district, as far as the chances of a Mexican American being

elected.

Is that what you are asking?

MR. YORK: Yeah.

Q. MR. KORBEL: Okay, this is with the optimum society.

A. It probably wouldn't make a difference. But I would still prefer a single member district.

Q. Okay. Now, on the thing about the location of the poor housing, or housing for the poor, talking about that one you mentioned on East 4th--

A. 4th Street, I believe

Q. Where do the people from that area work?

Do they work close to the South Plains Mall Shopping Center, or do they work closer to East 4th Street?

A. I couldn't tell you exactly where they work, no.

Q. That would make a difference if you were thinking about where would be the best place to locate the place where they were going to live, you would want to think about relating it to where they worked, wouldn't you?

A. Possibly.

Q. Wouldn't you always want to do that?

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A. Not necessarily.

Q. I mean you wouldn't want to just build it out somewhere in the far reaches of some white community just so it could be out there, and then have people wind up being ten miles from where they work instead of four blocks, would you?

A. I don't really know who lives in that thing for sure.

Q. All right.

A. Or where they work.

MR. YORK: Okay. I believe that is all we have. Thank you.

MR. KORBEL: We don't have anything further.

(Deposition Concluded.)

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EXHIBIT 1, SALINAS DEPOSITION, LUBBOCK COUNTY, OMITTED BY AGREEMENT OF PARTIES, FORMERLY PAGE 2015

EXHIBIT 3, SALINAS DEPOSITION, LUBBOCK COUNTY, OMITTED BY AGREEMENT OF PARTIES, FORMERLY PAGE 2016

THE STATE OF TEXAS]
COUNTY OF LAMB]

I, BOBBY G. ROBERS, Certified Shorthand Reporter in and for the State of Texas, do hereby certify that the facts stated by me in the caption hereof are true, and that the said witness did make the above and foregoing answers in response to questions propounded as shown, and that I did, in shorthand, report said proceedings, and that the above and foregoing typewritten pages contain a full, true and correct transcription of my shorthand notes taken on said occasion.

WITNESS MY OFFICIAL HAND, this the 26th day of November, A. D. 1973.

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Certified Shorthand Reporter

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IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF TEXAS
AUSTIN DIVISION

CURTIS GRAVES, ET AL, VS. BEN BARNES	NO. A-71-CA-142
DIANA REGESTER, ET AL, VS. BOB BULLOCK, ET AL,	NO. A-71-CA-143
JOHNNY MARRIOTT, ET AL. VS. PRESTON SMITH, ET AL.	NO. A-71-CA-144
VAN HENRY ARCHER, ET AL. VS. PRESTON SMITH, ET AL.	NO. A-71-CA-145
FRANK ESCALANTE, ET AL, VS. MARK WHITE, ET AL.	NO. A-73-CA-115
WANDA L. CHAPMAN, ET AL. VS. MARK W. WHITE, JR. ET AL.	NO. A-73-CA-155
JAMES GASKIN, ET AL, VS. MARK W. WHITE, ET AL.	NO. A-73-CA-146

ORAL DEPOSITION OF MADISON SOWDER
Taken November 21, 1973

APPEARANCES

FOR THE PLAINTIFFS: Hon. George Korbel
Mexican American Legal Defense and Education Fund
501 Petroleum Commerce Bldg.
201 North St. Mary's Street
San Antonio, Texas

FOR THE DEFENDANTS: THE ATTORNEY GENERAL OF TEXAS
Supreme Court Building
Austin, Texas
By Hon. Elizabeth B. Levatino
Hon. Larry York

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- A G R E E M E N T -

THE PARTIES to the above entitled and numbered cause, through their respective attorneys of record appearing herein, waive notice, service and time; and agree that the deposition of MADISON SOWDER may be taken on behalf of the Defendants on the 21st day of November, A. D. 1973, before Bobby G. Rogers, Certified Shorthand Reporter in and for the State of Texas.

THE PARTIES FURTHER AGREE that all objections as to form and substance will be made by the Parties at the time of the taking of the deposition.

THE PARTIES FURTHER AGREE to waive reading of the deposition to, or by the witness, and the signing thereof by the witness, and agree that same may be returned into Court by the Reporter, or the attorneys of record, for filing in said Court, and be used on the trial of these causes with the same force and effect as though the witness had read and signed the same.

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Thereupon,

MADISON SOWDER

was called as a witness on behalf of the Defendants, and having been first duly sworn, testified as follows, to-wit:

EXAMINATION

BY Mr. York:

Q. Will you give us your name, please, sir?

A. Madison Sowder.

Q. And where do you live, Mr. Sowder?

A. At Idalou, in Lubbock County.

Q. And specifically, is that within the two member legislative district that has been discussed, or is that within the one member district?

A. It is within the one member district.

Q. All right. How long have you lived in Idalou?

A. Fifteen years this session.

Q. And how long have you lived in this general area, or in the Lubbock area?

Sowder - by Mr. York

A. I am a native of Lubbock County.

Q. All right. Are you a lawyer?

A. Yes, sir.

Q. And where did you go to law school?

A. Texas University.

Q. Have you practiced all of your practice, then, down here?

A. Yes, uh huh.

Q. And when did you begin practice in Lubbock County?

A. In 1955.

Q. And while you live in Idalou, your office is in downtown Lubbock?

A. Yes.

Q. All right. Have you continuously practiced law here since that time?

A. Yes.

Q. Have you been active in, and interested in politics in this area since that time?

A. Yes, I have.

Q. Have you ever held any elective public office?

A. I am a member of the Idalou School Board, and that is what I consider public office.

Q. Have you been active in the Democratic Political

Organization?

A. Yes, I have always participated in supporting candidates in some manner.

Q. Since 1955, for instance, have you regularly attended precinct conventions and had that kind of activity in the political process?

A. Yes, I have.

Q. And have you held office in the Democratic County Organization?

A. Yes, I was County Chairman for four years.

Q. And when was that?

A. 1968 to 1972.

Q. All right.

A. Or '69 to '73.

MR. KORBEL: '69 to '73?

THE WITNESS: Yes.

MR. KORBEL: Okay.

Q. (By Mr. York) And, for the record, since the Court may not see you in person, this deposi- may be read, you are White, or you are Anglo?

A. Yes.

Q. All right. During that four year term, or four

year period that you served as County Chairman, were you given any particular recognition by any minority groups in the county, either Blacks, or other minority groups?

A. Well, yeah, like anybody else who takes on a job like that, you get a lot of names, and I was fortunate enough to get a -- oh, a resolution or a commendation at the last Democratic -- as Democratic Chairman from the minority groups.

Q. What was that exactly? I know you might not necessarily want to put up billboards about it, but just for the record.

A. It was for being fair to the minority groups.

Q. All right. During your tenure as County Chairman, did you ever have any complaints from any minority groups, or any spokesman for them, or any individual in those groups, where they would come to you and say, "Hey, you are not treating us fair?"

A. Well, I don't believe I remember any complaints about me individually, but there were complaints about various election judges, and so forth.

Q. Were these along racial lines, or just typical complaints?

A. I would think some of them were along racial

Sowder - by Mr. York

lines, and some of them confusion in voting, and . . .

Q. All right. When did the two member -- if you know, when did the two member, multi-member district get created out here?

A. Well, the present multi-member district has been in existence during the term of the present Legislature. We had a multi-member district about ten years ago, for either two or four years.

Q. Was that the first time that there had been a multi-member district here?

A. About ten years ago is when it started.

Q. In other words, prior to that time, the population had not been great enough that you had one district that had more than one legislator in it?

A. I believe that's right.

Q. All right. And at the time the multi-member districts were created, or multi-member district was created, ten or twelve years ago, whenever it exactly was, I take it that you know that that was the same pattern that had been enacted throughout the rest of the State; in other words, when they got big enough to have more than one representative from a district, they simply added a member to that district and elected on a multi-member basis throughout the state.

Sowder - by Mr. York

A. Yes.

Q. All right. So that Lubbock County has not been in any way singled out for different treatment than the state has as a whole has?

A. That's right. Of course, in that regard the multi-member district has, at times, been limited to Lubbock County, and at times has included other counties.

Q. Right. As the population would increase?

A. Right.

Q. All right. To your knowledge, from your vantage point, are you personally aware at this time of any discrimination directed towards Blacks or Browns, or any other minority groups, in, for instance, public housing in the City of Lubbock or in the surrounding areas?

A. Well, that really wouldn't be in my knowledge.

Q. All right.

A. I would say this: I would think that with a population of nearly 200,000 in the county, it would be extremely unlikely that there hasn't been some discrimination. I think with that many people you are going to have discrimination somewhere, you know. I am not -- I don't believe I have ever been physically present, like the testimony has been given by Mr. Salinas, when somebody was actually telling somebody: "You can't live here because

Sowder - by Mr. York

"you are Mexican-American," so I don't have any personal knowledge of being present when it happened.

Q. In your position as County Chairman, were you ever presented with any complaints from any minority group, or any individual minority member, who would come up and say: "I want you to know that there is this discrimination in public housing and I want you to do something about it and I want you to know about it?"

A. I don't believe that has ever been -- was ever brought to my attention as County Chairman. I am sure we have talked about these things just individually at dinner.

Q. In the recent history of this county, are you aware, as a lawyer and as a member of the community, of any lawsuits that have been filed, or any disputes of that kind that have gotten into the courts as to access to housing by all members of the community?

A. I can't personally remember one on housing. I can remember lawsuits on the use of cemetary lots and some other things, but I can't, right offhand, remember one on housing.

Q. All right. What about -- in as far as your knowledge is concerned, what about the situation with public facilities such as restaurants and theaters and polls, and that kind of thing, presently in Lubbock County?

Sowder - by Mr. York

Are they open to everybody, as far as you know, or are they not?

A. Well, the places that I go are open, but there are lots of places that I don't go, so I am not very knowledgeable about a lot of places.

Q. Do you go to any places in your travels around Lubbock that are either restaurants, theaters, whatever it might be, where you don't see Blacks or Browns there as customers or patrons?

A. No, I don't believe I go anywhere that limits their service to Anglos, or any particular ethnic group.

Q. Okay. To your knowledge, is there any sort of slate-making process that goes on out here as far as the manner that people that are going to run for the State Legislature gets selected to run for the State Legislature? Is there some sort of a little clique, or group, somewhere that gets together and decides who is going to run, or is it kind of a free-for-all type of thing?

A. It is my opinion that that particular race is just a free-for-all. I think you can take any candidate and pretty well guess who is going to support them, but I think it is fairly free-for-all, as far as getting in the race.

Sowder - by Mr. York

Q. All right. As far as the way candidates run here, do they -- to your knowledge, have they made use of the media, for instance, of the TV in -- how many TV stations are there in Lubbock?

A. Three, now, I believe.

Q. And do you know the candidates that have run for those legislative posts use TV?

A. Most of them do.

Q. How many daily newspapers.

A. One.

Q. And are there other papers which --

A. There are weekly papers in the small towns, outside of Lubbock, but in the county.

Q. Okay. And what other means? Is radio used by candidates for these type of posts?

A. Yes.

Q. Do you have any familiarity, from your experience as County Chairman, of what the cost has been for a fellow to run for a seat in the Legislature from out here?

A. It varies a great deal. I have looked at the sworn expense accounts that have been filed in the County Clerk's Office in years past, and I think the expense runs from a modest fifteen hundred or two thousand dollars, up to rather extravagant campaigns that run ten or twelve or

fifteen thousand dollars.

Q. All right. Do you -- you may not know the answer to this, but let me ask you if you do. We were talking while ago about the race that Mr. Salinas ran for School Board here last year, and where he came within 250 votes of beating the Anglo who ultimately won.

Did you study that race enough to know whether or not there was evidence of substantial Anglo support for Mr. Salinas, or could you make a statement on that?

A. I didn't study the race as far as results to voting boxes, or anything like that, but I would say that as among attorneys elections are always talked, and --

MR. KORBEL: Excuse me, what?

THE WITNESS: Elections are always talked about and discussed.

MR. KORBEL: Yes, sir.

A. And I would think that Mr. Salinas got a pretty good amount of Anglo support, unless people were lying when they were discussing it.

Q. All right. So, in your opinion, it was not a totally polarized type of voting?

A. Well, not totally. I am sure that to some

extent it was, I know he was well spoken of by the people I heard discussing the race, and I don't happen to live in the Lubbock Independent School District, so I was not a participant in the election, but I discussed it.

Q. In other words, the discussions that you heard among, I suppose, predominantly Anglo lawyers, for instance, if we limit it to that group for awhile, were that many were well disposed towards Mr. Salinas candidacy and expressed intentions of voting for him?

A. Yes.

Q. All right. And in a broader group of Anglos, of friends, and that kind of thing, did you also find that to be true?

A. Yes, but the discussion outside of the lawyers was rather limited.

Q. All right, have you, yourself, supported, endorsed, or contributed to minority candidates in races such as this?

A. Yes, I have.

Q. Have you contributed to a Black candidate in that kind of race?

A. Well, not in the School Board race, but I have in the City of Lubbock, City Council race.

Q. Okay. Are you alone, as an Anglo doing that?

Sowder - by Mr. York

A. No.

Q. I mean are you the only Anglo in Lubbock County that did that?

A. No. My partner, and three or four people that we regularly eat lunch with, all contributed.

Q. All right. As far as the mechanics of drawing a line, or trying to divide this two mem-district into two separate single member districts, do you have an opinion as to the ease, or difficulty, as a practical matter, of doing that?

A. Yes. I believe that in City of Lubbock elections, as opposed to legislative posts, that single member districts can and should be drawn.

I believe in the Lubbock Independent School District, single member districts could and should be drawn.

In our present situation here, we have three representatives from Lubbock and Hale Counties. We either have to put a part of Lubbock County with Hale County to get two representatives out of the remainder of Lubbock County, or we have to put the two counties together to get three single districts.

And having lived here all of my 46 years of my life, except when I was in service and in school, and watching

the population growth, and the shifts in the ethnic groups in where they live, and so forth, I think it would be extremely hard to draw a single mem- district that would place the Browns, or the Browns and the Blacks in a district that would give them sufficient voting strength to elect someone.

When Mr. Salinas mentioned Arnett-Benson, which was, as he says, exclusively White years back, it is no longer that way.

The predominant Black population in Lubbock is still in Souteast and East Lubbock, and while there has been a White flight, there is still a lot of Anglos that live particularly in Northeast Lubbock.

And I would state frankly that I am in sympathy with their position here, but the mechanics of being able to do it is what looks to me to be very difficult.

Q. All right. Do you know what, say in the last ten years, we will limit it to that what the numbers have been of Mexican-Americans who have actually run for elective office in this county?

A. Of Mexican-Americans?

Q. Right.

A. Well, we have one Constable in a Justice of Peace Precinct here and he is in his second term of four

years.

We had a Mexican-American run for County Commissioner in Precinct 3.

Q. When was that, roughly?

A. That was five years ago that he ran for County Commissioner.

And as Mr. Salinas said, two Mexican-Americans ran for the School Board in Lubbock Independent School District.

I believe a Mexican-American has run for the City Council. I couldn't call his name right now, and I can't be sure, but I believe that is correct.

And we, in the rural areas -- I don't know about other rural areas, but we have had Mexican American candidates for the School Board, and we will have one this year, I am sure.

Q. And how many, then, are currently serving? You have a Constable, and what else.

A. I believe that is all that is currently serving.

Q. All right. Constable from what precinct, if you remember?

A. That would be Precinct 1, I belive, and I don't know whether it is Place 1 or Place 2.

Q. Is that precinct, if you know the answer to this,

Sowder - by Mr. York

how does it break down as far as ethnic breakdown?

A. I don't think that it would--well, I believe it would be predominantly Anglo.

Q. Okay. From your viewpoint, having been in Democratic Politics here for a long time, and having been County Chairman for a period of four years, is it your view that the Mexican-American Community is well organized politically, or is it as well organized, say, as you might think of it in Houston or Dallas, or San Antonio, or El Paso, or wherever else you might think of a Mexican Community being?

A. I am really not familiar enough with those other areas to make a comparison.

I think the Mexican-American Community here is a lot like many other communities here, the Anglo Communities, there are areas, like in Slaton where the Catholic Priest there is a good organizer, and he can get them organized.

The Father here has done a good job out in Shallowater.

There are other areas that you couldn't go out here and set off an atomic bomb and get them interested.

I don't see that they are any different from Anglos in that regard. You can organize some, and some you

can't. It all depends on the organizer and the people you are trying to reach, but, again, I am Anglo, and I have to see it from where I sit.

Q. Right.

A. And I may not be seeing it correct.

Q. How did the -- let's see, the one County Commissioner you mentioned who ran, I think five years ago, or the one Mexican-American that ran for County Commissioner, did he win or lose.

A. He lost.

Q. Was he running against a single Anglo or more than one?

A. I believe he ran against the incumbent Anglo Commissioner, and I believe, one other Anglo.

Q. Do you have any recollection about how that race broke down?

A. Well, the incumbent won it.

Q. How about the percentage of the votes?

A. And -- oh, excuse me, there was a Mexican-American from the Father's precinct there that ran for County Commissioner, also, a lady from the precinct that includes Shallowater.

MR. KORBEL: Just a minute. Are we talking

about, first of all, the 1968 election or County Commissioner's race?

THE WITNESS: One of them was in '68, and one was in '70.

MR. KORBEL: There were only two candidates in that race.

THE WITNESS: In the '68 race? Maybe there was just two, I was thinking there were three.

Q. (By Mr. York) And do you remember how that race came out in terms of percentage of the vote?

A. No.

Q. Where you had an Anglo incumbent versus a Mexican-American challenger?

A. Well, the one in '68, happened to be the precinct in which I lived, and I see that more as a race of the rural as opposed to a surburban vote. In that precinct it has been traditional that the Commissioner live at Idalou, and the incumbent does, and the Mexican-American challenger was from Lubbock, and the Mexican-Americans from Idalou, for example, campaigned in Lubbock for the Anglo incumbent.

Q. You actually had Mexican-Americans campaigning for the Anglo incumbent?

Sowder - by Mr. York

A. Yes, but to us that is a question of whether or not we, in that rural town of Idalou, are going to maintain our strength on the Commissioners Court, and we let that play, I think, a very large role in our attitude there.

Q. Would it be your opinion, then that the race did not turn on racial issues?

A. Well, I would say a lot of votes were cast on a racial basis, but I would doubt that the election turned on the racial issue.

Q. All right. To your knowledge have Mexican American candidates, within your knowledge, ever been discouraged by the Democratic organization from running for any elective office in the county?

A. Not to my knowledge.

Q. And you have already told us that in a number of instances that you are aware of where a Mexican American has run, he has received substantial support from the Anglo Community.

A. Yes.

Q. Lets see, are you a member of any of the service groups that we have talked about, Rotary or Kiwanis or JayCees?

A. Lions Club.

Sowder - by Mr. York

Q. You are a member of a Lions Club?

A. Yes.

Q. Is there any policy that you are aware of within the Lions Club that says that Mexican-Americans or Blacks are unwelcome in your Lions Club.

A. No. Of course, I am not a member of any Lions Club in the City of Lubbock, but as far as I know, there is no club policy in that regard.

Q. Do you have Mexican-Americans in Idalou?

A. Yes.

Q. Are they, in any way, excluded from your Lions Club?

A. No.

Q. There is no policy stated to the effect that you don't want Mexican-Americans or Blacks?

Q. No. At the present time we don't have any members from either group, but we have had some to visit and they haven't joined. I don't believe we ever had a Black to visit our Lions Club.

Q. Okay. Can you think of a situation, even if you had a single member district, if you can imagine how that might be devised in this county, where realistically any candidate could successfully campaign without making use of the media such as TV and radio and the

newspapers?

A. I don't believe, as a practical matter, that a person could get elected to most offices -- if you are speaking specifically of the State Legislature, I don't believe you could get elected without resorting to those media.

MR. YORK. All right. I believe that is all we have.

EXAMINATION

By Mr. Korbel:

Q. Okay. I have just got a couple.

Now, you talked about several matters, first of all, it is my understanding that there is no organized slate of persons, is that right, in this county, for the State Legislature?

A. I don't believe there is for the State Legislature.

Q. Okay. Would you agree with the statement that Lubbock County has, at least in the past, had a reputation for discrimination against Mexican-Americans and Blacks throughout Texas?

Sowder - by Mr. Korbel

A. I don't believe you could show me a county in Texas that hasn't discriminated against Browns and Blacks.

Q. But Lubbock County is no different than the other counties in Texas?

A. No, I wouldn't think so.

Q. Would you say that all these matters, all this discrimination, has evaporated today, or would there still be vestages of discrimination?

A. Oh, I think there would be pockets of discrimination. I am not -- you know, I can't -- not being a Brown or a Black, I can't pick them out like a member of those groups could --

Q. Uh huh

A. -- but I don't have any doubt that it exists.

Q. Well, you would agree, though, that there is still some remaining vestages of discrimination?

A. Yes, I would.

Q. All right. Would you agree that these remaining vestages of discrimination make it more difficult for Mexican-Americans to appeal to Anglo voters?

A. I don't think -- I think it would make it more difficult to appeal to small groups of Anglo voters.

Q. Uh huh

Sowder - By Mr. Korbel

A. I think we have changed enough that a good percentage of Anglo voters are fairly well reasonable about racial matters.

Q. Would it surprise you if I told you that a survey just completed in Lubbock County indicated that -- lets see, 23.8 per cent of the Anglos surveyed indicated a disfavor toward a Mexican-American candidate, the possibility of a Mexican-American candidate for the State Legislature?

Would that surprise you, that the percentage would be that high?

A. What percentage?

Q. 23.8

A. No, I think that is about what I would probably --

Q. So, roughly about 25 per cent of the Anglos you would say, are still affected by this --

A. Yeah. One out of four, I would think that would be about right.

Q. It could be higher than that, but it would be at least that?

A. Well, I think that is fair. That sounds like a good survey to me.

Q. Okay. Now, we talked about dividing it and campaigning. If you divided the county into two districts,

probably -- or if you divided Lubbock County into two districts, do you suppose it would be possible to go door-to-door almost to campaign for elections.

A. Not by a candidate by himself. If he had enough workers who were willing to do it, he could, but not by the individual candidate.

Q. And would it be less expensive to run from a single-member district than it would be to run from one large multi-member district?

A. There might be a small saving, but, for example, your TV stations don't, I don't believe, give you a reduction, if you put out a political ad on there.

Q. I understand.

A. I think they charge you the same rate. Now, they do give some small breaks, maybe, but very little.

Q. I am going to show you a map, which I am going to identify as Plaintiff's Exhibit P-1, Sowder Deposition, Lubbock County.

(Thereupon such map hereinafter described was (identified as Plaintiffs' Exhibit No. 1, Sow-(der Deposition, Lubbock County, and same is (attached to this deposition.

Q. (By Mr. Korbel:) And I am going to show you

this map and ask you what you understand that to represent?

Maybe I can help you on that. This area is the Lubbock County Multi-Member District divided into two spots.

A. Uh huh

Q. Now, if we drew the lines substantially that way, the way they are drawn now, and limited the district to this size, would you suppose that the district referred to as 75-2 on this map would be small enough that a candidate could fairly easily go door-to-door in a campaign?

A. I don't believe so.

Q. What would be the distance? The furthest distance, say, across the district horizontally?

A. Well, I don't remember what this is. Is this the east City Limits, I assume, here?

Q. Yes, this is correct. And this would be Texas Tech here.

A. You are going to the west side of the Texas Tech campus?

Q. Yes, sir.

A. That is about five miles.

Q. Okay.

A. Five to six miles.

Sowder - by Mr. York

Q. The district would be about five miles long and possibly about three and a half or four miles the other way, right?

A. Well, this goes to the traffic circle on the north, or the city limits--

Q. If we squared it off, it is going to be about three by four, or three by five?

A. No, it would be larger than that. It would be five by five. I think, at the least.

Q. Okay So it would be 25 square miles?

A. I believe it would be.

Q. And if I told you that --

A. I am not an engineer.

Q. I understand. I understand. I am just estimating.

A. Okay.

Q. But if I told you that there was sufficient population in this district to make a district, would you have any objection to that? Would that look about right to you.

A. As far as population?

Q. There would be sufficient population to account for about 74,000 people, is that right?

A. I think you would have to include the Tech population.

Sowder - By Mr. Korbel

Q. Yes, Tech is included in that, that is that tract.

A. Yes.

MR. YORK: You might talk to him in terms of sections of land, he might understand that.

Q. (By Mr. Korbel) Okay. Does this look like a difficult map to draw? You said you thought it would be fairly difficult to divide the county--to divide the Multi-Member District into two parts.

A. I didn't say I thought it would be difficult to divide it into two parts. I don't think you have got the population there that gives the minority groups a majority in that area. I may be wrong.

Q. If I told you that the population in that area would be about forty per cent, or a little over forty per cent Mexican-American and Black combined, would you disagree with that?

A. I would have no way of questioning that statement.

Q. In general, do you know where the Mexican-American and Black population is located in the City?

A. Yes.

Q. Where would they be located with respect to this

map?

A. The --

Q. What percentage of the Black population would be in the district which has been identified as 75-2?

A. All but one or two percent.

Q. Okay. What percentage of the Mexican-American population would be in there?

A. Ninety per cent and up.

Q. Okay. Now, I am going to ask you, do you suppose it would be less difficult for a Mexican-American or Black to run and be elected in 75-2 than it would be to be elected in the entire county; and I am going to remind you of your answer that about 25 per cent of the Anglo voters in the county appear to object to Mexican American candidates for State Representative just simply because he is a Mexican American. Would it be simply for them to run, would there be less likelihood of discrimination against them in that district? Than there would be county wide?

A. Probably so.

Q. There would be?

A. Probably less discrimination in the district you have drawn there.

Q. And if a Mexican- American, lets say, were running

for election, or a Black were running for election in 75-2 -- strke that.

Now, you said that the expenses ran as high as fifteen thousand dollars for a State Representative's race.

Lets say that I a promising young lawyer and I show up in town and I decide I want to become active in the Democratic Party and wanted to run for election -- lets back up. If I showed up in town and wanted to be a State Representative, would I run in the Democratic Primary or the Republican Primary?

A. Democratic.

Q. Why is that?

A. Well, I would.

Q. But, practically, why would I run in the Democratic Primary?

A. Well, at this time I am not sure that -- well, you would still have a better chance to run as a Democrat.

Q. Well, lets stop there.

A. But it is not widely separated any more.

Q. I see. Has a Republican ever been elected to a contested political office in Lubbock County to your knowledge?

A. A Republican has not been elected to political

office in the County, but Republicans, in state wide, or larger elections, have carried the County.

Q. But if I wanted to be elected to the State House of Representatives, I would probably run as a Democrat?

A. As a Democrat.

Q. Lets say that about the same time a young Mexican-American attorney showed up, of about the same age, in the town, and we were running from the same district, do you suppose it would be easier for him to be elected, or me to be elected?

A. Probably so. Probably so.

Q. So, all things being equal -- now, you said you didn't remember any instances of discrimination against Mexican-American People, does that mean that it doesn't exist?

A. Oh, no. That doesn't mean it didn't exist.

Q. You just weren't around when Mexican Americans were discriminated against, or Blacks were discriminated against?

A. Well, I wasn't with Froy when they were buying a house, or when he called about the apartment.

Q. But it does exist?

A. I don't doubt that it exists.

Sowder - by Mr. Korbel

Q. Now, you have been a lawyer ever since 1955, is that right?

A. Yes.

Q. And restrictive real estate covenants haven't been used since 1955, have they?

A. No.

Q. But were they in use in this county before 1955?

A. Yes. Before the Supreme Court declared them to be unconstitutional.

Q. And have you seen restrictive covenants against Mexican-Americans, Blacks, in your title work, I suppose?

A. I don't believe I have ever seen a restrictive covenant against a Mexican-American.

Q. You have never seen restrictive covenants against Mexican-Americans or Blacks?

A. Blacks, yes, but I don't believe so against Mexican-Americans.

Q. Well, if I showed you one, it would be possible?

A. Oh, I don't -- I just say I haven't seen one.

Q. Yeah.

A. I don't doubt they exist.

Q. Okay, okay. You were talking about the Arnett-Benson Addition, and you mentioned White flight. Do you have a lot of White Flight in Lubbock? Do you see that?

Sowder - by Mr. Korbel

A. Well, I used that term because Froy had first used it.

Q. Yes.

A. Well, we see it very obviously in the Northeast part of town, Parkway Drive, Cherry Point Addition.

Q. All right. Now, you said the single member district should be used for the School Board, is that right?

A. Yes, I did.

Q. Why do you think this is true?

A. Because I don't believe the minorities are adequately represented in it. Well, maybe on the School Board, because there is a Black on the School Board now.

Q. Yes.

A. But there would have been one on there sooner if --

Q. Uh huh. And why is that, that there would have been one on there sooner?

A. Well, I think with seven members, it is much easier to draw single member districts.

Q. Would you say their votes in the past have been diluted by all the other Anglo votes that could vote in the School Board election; would that be a fair statement? Or minimized?

Sowder - by Mr. Korbel

A. Well, I don't know how to term that. I would just say that the Anglos had won because they had more people to vote.

Q. Okay. That is fine. I will let that stand.

Now in the large district, when you have to run almost county wide for the State Legislature, your testimony was that you definitely had to use the media, right?

A. Yes.

Q. There would be a smaller necessity to use the media if you were running from a single member district, wouldn't there? If you were from a single district, you could get more people to work for you and go door-to-door and rely less on the media? You would still have to use some of it, but you could rely less on it?

A. Well, you are talking about relative things.

Q. Well, you are the County Chairman, you should--

A. No, I am not. I was.

Q. You were the County Chairman, you are an expert on campaigning?

MR. YORK: Can we stipulate to that?

A. You know, running for the School Board in Idalou

there was only one person that ever used any media, and he was soundly defeated as a protest to him using any media.

But, in the City of Lubbock, for example, in the City Council Election, it is not unusual to spend several thousand dollars.

Q. Uh huh.

A. And in the School Board Elections it is not unusual to spend several thousand dollars in School Board Elections.

Q. I understand.

A. I don't believe, that as a practical matter, that you can organize the precinct you have drawn, or district you have drawn, or any other thing that covers 75,000 people, in the area you have got to have, and substantially reduce the use of the media. I just don't think you can.

Q. If I suggested to you that the experience in the last campaign in Dallas County and in Bexar County was different from that, would you disagree?

A. Well, I--

Q. The -- that there were districts in Dallas and Bexar County where the victors used very little media?

A. Well, I think that is certainly possible.

Sowder - by Mr. Korbel

Q. That is possible?

A. Sure.

Q. Okay. If I was this promising young lawyer and I showed up in Lubbock and decided I wanted to run for the School Board, would one of the ways that I got myself known around Lubbock be joining organizations like Kiwanis, and Lions, Elks, Eagles, and these organizations?

A. Well, not to get my vote.

Q. Well, no, but for the most part, for the most part, wouldn't that be one of the ways I would get to be known around town?

A. That would be a good way to get acquainted with people.

Q. Okay. When a Mexican-American goes on--we talked about 25 per cent of the Anglo population in the Lubbock County Multi-Member District being opposed to a Mexican-American, per se, in running for the State House of Representatives. When he goes on television and speaks with his Mexican American accent, with his Spanish accent, do you suppose that that really turns off the 25 per cent of the Anglo voters, and actually encourages them to get out and vote against him?

A. I don't know. I hope that I mix with people that would not, and so I don't know.

Sowder - by Mr. Korbel

Q. Would this be a reasonable conclusion though?

A. Well, I think that maybe you have overstated it when you say they would work against him.

Q. Uh huh

A. I think it might turn them off as far as voting for him. I think they would be more reluctant to maybe vote for him than they would vote for him, but I don't think in that high a percentage of people that it would actually activate them to openly, or actively oppose him.

Q. But in respect to that at least 25 per cent of the voting population, in respect to that group, the use of the media actually damages the Mexican-American candidates, isn't that right?

A. Well, it would --

Q. It doesn't help them any?

A. Again, it is back to this: I think this proposition of the appearance of a Mexican American on TV is not going to gain some people his vote.

Q. All right

A. Just as a nervous candidate, or anybody else.

Q. But it is different from being nervous?

A. Yeah.

Q. This is race.

Sowder - by Mr. Korbel

A. The ethnic thing is not going to gain some people.

Q. Okay. I will accept that.

Now, you said there was some litigation over cemetary lots. Can you straighten that out for me?

A. Well, there was, I believe, a Black airman at Reese whose wife died, and the City initially refused to let his wife be buried in the City of Lubbock Cemetary.

Q. When was that?

A. Oh, six or seven years ago.

Q. There was a Black Cemetary that she could have used, though, wasn't there.

A. I really don't know.

Q. Where do the Blacks bury their dead?

A. I really don't know.

Q. Where do the Mexican-Americans bury their dead?

A. Well, In Idalou, the same place we bury the Anglos, but I don't know.

Q. You don't know where here?

A. No.

Q. There is one other litigation that we probably should mention, and that is the U.S.A. vs. Lubbock Independent School District. Are you familiar with that

case?

A. Yes.

Q. And do you know how many schools were found, as a matter of law to be de jure segregated with respect to Blacks?

A. I just remember the Federal District Court redrawing the school district's boundary lines.

Q. Well, we will let that opinion speak for itself. That is fine.

A. Sure.

Q. Lets see, you are familiar with Box 5, in your County Commissioner's Precinct?

A. If you will tell me the name of the box, I may be.

Q. Let me see if I can find it.

A. Is that Central Fire Station -- no Guadalupe School.

Q. Yeah.

A. Yeah.

Q. Would you say that is a racially identifiable box?

A. Yes.

Q. What would that be?

A. Latin-American.

Sowder - by Mr. Korbel

Q. Okay. What about Box 2? Let me--

A. Northeast corner, that would be--

Q. Sam Arnett in 1968. What would the relative percentage be of Blacks to Anglos there?

A. I am going to have to place that. That is Arnett-Benson?

MR. YORK: Claton Carter (Phon)?

A. Claton Carter. Well, I truthfully don't know how you would identify that one.

Q. Okay.

A. Probably the whole box Mexican-American, I would guess.

Q. At this point, but I am talking about 1968, now. In 1968, do you remember what that was?

A. Well, I would have thought then it was pretty well mixed . .

Q. All right.

A. Not many Blacks, but I would have thought it would have been mixed between Mexican Americans and Anglos.

Q. Probably a little more Anglos than Mexican Americans?

A. Probably so.

Sowder - by Mr Korbel

Q. So if I said it was about three to two, would that be about right?

A. I would think so.

Q. And Box 5, you would say would be about, oh, four to one Mexican-American?

A. Probably so.

Q. Box 6, would you say that would be mixed, about five to four Anglo, lets say?

A. Tell me the name of the precinct.

Q. Oh . . .

A. I am sorry.

Q. That would be Alderson Junior High. This would be in '68?

A. '68

Q. And it would be about half and half, five to four?

A. In about '68, maybe half and half.

Q. Okay. How about Box 10, that is Thompson School would that be about five to two, would you say, Anglo, in that area?

A. I don't remember where Thompson School is.

Q. Maybe I can show you a map. Maybe that would help some. Well, I don't guess I have one. Well, lets try another one here. How about Lubbock-Dupree School,

in 1968, would that be about four to one, Anglo, would you say?

A. I wouldn't have thought it would have been that high.

Q. It wouldn't have been that high?

A. I don't think so.

Q. Would it have been three to two maybe?

A. Maybe.

Q. Okay. And Box 18, now that is O. L. Slaton Junior High School, what would you say that was, about? Four to two? About two to one Anglo?

A. Probably two to one.

Q. Okay.

A. Or three to one.

Q. Now, I am talking about Box 41, now, that is getting down into your area, is it not.

A. Yes, that is Idalou.

Q. That is the City Hall at Idalou.

A. Yes.

Q. What would the registered voters by there?

A. Total?

Q. Yes.

A. About 1,100.

Q. How would that break down, Mexican-American, Anglo,

Sowder - by Mr. Korbel

registered voters?

A. About three-and-a-half to one.

Q. Anglo over Mexican-American?

A. Yes.

Q. So it would be somewhere between three-and-a-half to one, right?

A. Yes.

Q. Okay. Now, Box 43, that is down in your area, too, isn't it?

A. That is New Deal.

Q. 43, that is the New Deal Club House?

A. Yes.

Q. How would that run in '68?

A. Well, I don't have any -- I really wouldn't know.

Q. About three to two, or three to one?

A. I don't know.

Q. Box 48, do you know how that would run? That would be the May Murphy School?

A. May Murphy?

Q. That is down in your area.

A. No, that is down south. That is predominantly Anglo.

Q. So that would be about three to one or four to one?

Sowder- by Mr. Korbel

A. Thirty to one.

Q. Thirty to one Anglo?

A. Yes.

Q. Okay. So if I told you that -- if the percentages that you just gave me were very close approximations to the percentages that Derrick and Carrillio (Phon) received in the 1968 Democratic Primary; if I told you that those were very close approximations to the actual vote they received, would you agree with me that those votes were probably cast along racial lines?

A. I wouldn't dispute your statement as to some of the boxes, no, I don't think so.

Q. Which boxes would you say were especially racist?

A. 41 was not.

Q. If I told you it was 638 and 134 for Derrick over Carrillio, would you still disagree with me?

A. Yes, I sure would.

Q. Which boxes would be the racist boxes?

A. Well, I don't know enough about New Deal boxes, for example, and the May Murphy shouldn't have been in that election.

Q. It was. It was. Anyway, I know Box 48 was.

A. Well, it was in the box, then, I guess.

Q.. Okay.

Sowder - by Mr. Korbel

A. And in the Idalou Box, I can come nearer saying that was rural vote for him as opposed to urban vote for Carrillio, and a County Commissioner will make 184 people mad in four years that wouldn't vote for him, and I know lots of Whites that didn't vote for him that live at Idalou.

Q. Okay. But you will agree that at least some of these boxes represent racial votes, is that right?

A. Well, I don't know, and I don't ---

Q. You wouldn't dispute that?

A. No, I don't dispute it.

Q. Okay. So if that was the conclusion you wouldn't dispute that. Okay.

Just two more questions that I am going to ask you.

Now, with respect to candidate recruitment, do you suppose that the use of multi-member districts in Lubbock County would discourage--or we will talk about multi-member districts in general, would discourage a Mexican-American from running if he knew, for example, that 25 per cent of the Anglos were going to vote against him just because he was a Mexican-American and for no other reason?

Do you suppose that would discourage his

recruitment?

A. Well, I think anybody that announces for office, that has got any sense at all, weighs every item, and that would be one of the factors he would have to include in his decision.

Q. Uh huh. Okay. Do you suppose that the residual effects of the poll tax and annual voter registration, the filing fees, and the restriction in migrant voting, and the like, would have some sort of effect upon Mexican-American outlooks as far as politics are concerned?

A. Viewed from . . . ?

Q. We are just talking about the residual effects, the poll tax went out in 1968.

A. I can only view it from an Anglo's position.

Q. And as the former County Chairman, too?

A. Well, I can't understand how it does, but it may very well.

Q. Okay. If I told you that the studies indicate that it does, you wouldn't dispute that, right?

A. No.

MR. YORK: Which studies are we talking about?

MR. KORBEL: I went into them. I will get it. I'm not sure any more.

Sowder - by Mr. Korbel

Q. (By Mr. Korbel) For the purpose of the record, with the exception of the Constable you referred to in that precinct, and I am not sure about the racial breakdown, because I don't have all the maps we normally have; but with the exception of that Constable, has a Mexican-American, since Reconstruction, ever been elected to anything in Lubbock County that you know of?

A. Well, I haven't been around that long.

Q. But in your knowledge?

A. He is the only Mexican American that I can think of that has held public office.

Q. All right, do you have an explanation for that?

A. Well, I think ethnic origin is certainly one factor.

Q. Okay. Would you say that is a substantial factor?

A. Well, yeah, it is substantial.

Q. Okay. Would you say the educational problems the Mexican-Americans have faced in the county is one factor?

A. Yes, The cost of the races.

Q. And the cost of the races is another factor?

A. Yes.

Q. All right.

Sowder - by Mr. Korbel

MR. KORBEL: That is the last question I have. I think I am going to offer this map into evidence at this time.

(Thereupon the map heretofore identified as (Plaintiffs' Exhibit No. 1, Sowder Deposition, (Lubbock County, was offered in evidence, a (copy of which is attached to this deposition.

MR. YORK: We have nothing further.

(Deposition concluded.)

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EXHIBIT 1, SOWDER DEPOSITION, LUBBOCK COUNTY, OMITTED BY AGREEMENT OF PARTIES, FORMERLY PAGE 2067

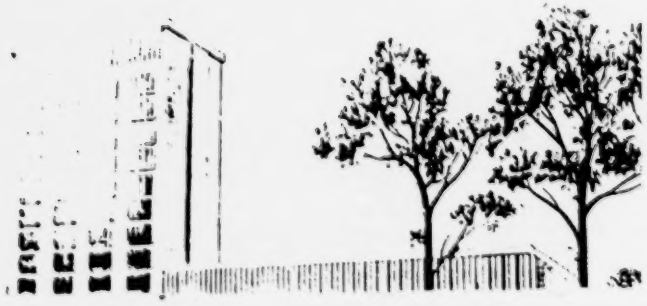
EXHIBIT 2, SALINAS DEPOSITION
(Cover Page)

Managing Mexican-American Employees

by

CARLTON J. WHITEHEAD
and
ALBERT S. KING

COLLEGE OF BUSINESS ADMINISTRATION
TEXAS TECH UNIVERSITY



2068

EXHIBIT 2, SALINAS DEPOSITION

CHAPTER 1

INTRODUCTION

Mexican-American form one of the largest, most distinctive, and most economically deprived minority groups in the United States. While there are many dimensions of this problem, our research is specifically concerned with managerial problems in effectively assimilating this minority into industrial organizations.

The typical complaint levied by managers against Mexican-Americans, as well as other underprivileged employees, is that they do not perform as well as they should. When asked about John Smith's performance, a manager's reply might be that "John has had a good training and educational background for his job and is a good employee." If questioned about Tony Gonzales and his work performance, the manager might state something like "with such poor background and education, what can you expect?" In other words, managers perceive that the Mexican-American is not prepared for the industrial work environment. In many cases, managers' perceptions of Mexican-Americans' preparation for assimilation into the work environment are accurate. However, the problems which managers in industrial organizations face are much more complex than simple first-hand experience indicates.

The fundamental problem is believed to reside in intercultural relations. The Mexican-American has maintained a separate subcultural system within the larger American culture which has contributed to differences in his preparation for work standards and managers' attitudes toward Mexican Americans unintentionally influence and condition their job-related performance. This research is designed to investigate the problems which typically arise.

THE DISADVANTAGED MEXICAN-AMERICAN

To gain perspective of employment problems of Mexican-Americans, one must understand the socio-economic conditioning and status of the disadvantaged. It is possible to locate the origins of some of the Mexican-American employees' work habits in the social and economic systems of the disadvantaged worker. Numerous descriptions have provided information about the habits of work, rest, recreation, education, medical attention, housing, life chances, and other socializing processes that the underpriviliged worker learns from his own culture. The voluminous

studies of minority groups provide sufficient evidence to develop a profile of the disadvantaged, and in particular of the Mexican-American, worker:

1. unemployed, underemployed, unable or unwilling to secure work; occupations generally of the menial, manual, unskilled, or semi-skilled type;

2. high crime rate, and participation in vices as well as disregard for mores of dominant group;

3. lack of sufficient educational provision;

4. poor nutrition, high incidence of disease and injury, and generally indecent health standards;

5. living in substandard housing with overcrowded conditions and inadequate sanitation facilities; frequent moves from one poor house or apartment to another;

6. high birth rate and high mortality of offspring in infancy and childhood;

7. hopeless lack of self-determination accompanied by lowered motivation; generally discontented, rebellious, and demanding of social reforms.

These are characteristics of an individual who is living on the bottom of the socio-economic scale within the United States. It is obvious that an individual who possesses these characteristics is not one who is going to be challenged by the typical, Anglo-dominated industrial organization; that

is, he will not be expected or motivated to perform effectively within the environment as it has been shaped by the Anglo-dominated culture. Recognizing the Mexican-Americans' historically disadvantaged role is necessary in order to understand the training and work environment which has served to reinforce his suppressed level of motivation and productivity.

Factors precipitating the Mexican-American's Disadvantaged Position

The family structure is an important factor influencing the role and status of the Mexican-American worker. The Mexican-American family on the average is larger than the Anglo family. Larger family size usually causes the Mexican-American problems not encountered by the typical Anglo worker. The necessity of supporting a larger family on what is frequently a smaller income obviously changes family relationships, requirements, standards, and behaviors. With urgent daily requirements for the bare necessities of food and clothing, each member is required to reduce ambitions and achievement aspirations to a level of substenance; to limit horizons as far as long-range planning and training for improved skills and better jobs are concerned; and to narrow and restrict perspectives and goals concerning future education and career plans.[1] The Mexican American, preoccupied with pressures for family survival, does not acquire a drive for higher skills

Interrogatories, as the logical sequence of questions and answers.

THE COURT: Very well. They are admitted.

MR. WOLF: May I say also, if Your Honor pleases, that extra supplemental answers to Defendant's Interrogatories as far as they pertain to questions which dealt with Individual plaintiffs, spouses, children, and schools attended, have been served on Defendant and copies filed with the Court.

THE COURT. Yes.

MR. WOLF: They will be part of our answers to Interrogatories that will of course fall within 2-A.

THE COURT: Why don't you write on the exhibit "supplemental"? Let me make it 2-C then.

MR. WOLF: Would you like it 2-C?

THE COURT: That is admitted into evidence.

MR. DEANDA: Your Honor, we call Dr. Garcia. If the Court is ready.

HECTOR PEREZ GARCIA,

witness called by and on behalf of the Plaintiffs, having been first duly sworn, was examined and testified as follows:

DIRECT EXAMINATION

BY MR. DeANDA:

Q. Doctor, would you please state your name for the Court?

A. My Name is Hector Perez Garcia.

Q. Dr. Garcia, you are a medical doctor?

A. I am a doctor of medicine.

Q. Practicing here in Corpus Christi?

A. That is correct.

Q. And--

A. I am a general practitioner.

Q. You have practiced here in Corpus for how long?

A. I would say since about 1946.

Q. All right. Where do you reside?

A. My home address is 401 Peerman Place, Corpus Christi, Texas.

Q. And your office?

A. My office 1301 Cright Street.

Q. Doctor, aside from your medical practice, have

you been particularly involved in Corpus Christi with the problems concerning the Mexican American?

A. Since I came to Corpus Christi, I have been deeply involved in the problems of the community, and especially the problems of the Mexican American in this area.

Q. Have you had occasion to serve on any committees or political bodies of any sort, either private or public, that directs their attention to the problems of the Mexican American?

A. My main tenure of office on such a body would be a commission member of the United States Commission of Civil Rights.

Q. All right. Doctor, apart from that particular appointment and your membership on the Commission, have you served on any other boards or committees that deal with those particular problems?

A. Well, I have participated in different committees and meetings and caucases involving these specific problems on practically all levels here and in the state.

Q. Have you ever had occasion to serve on the Bishop's Committee for the Spanish People?

A. Yes, I was vice-president of the Bishop's

Committee for the Spanish People.

Q. And that committee was formed by whom and for what purpose?

A. The Bishop's Committee for the Spanish Speaking was formed by the Area Regional Bishops of the Catholic Church with the main purpose of trying to look into and seeking solutions of the serious problems involving and affecting the Spanish speaking in this area.

Q. And when were you first appointed to the United States Commission on Civil Rights?

A. I was appointed in about December of 1963.

Q. And you also served in the United Nations, I believe?

A. Yes, I served in the United Nations as alternate delegate with the rank of ambassador at the United Nations in New York on behalf of our country, the United States of America.

Q. Doctor, you are the founder of the American GI Forum?

A. That is correct.

Q. What is the purpose and reason for which that organization was formed?

A. Basically, it was formed here in Corpus Christi in '48, in 1948, to try to gain or improve

the various serious conditions of the problems of all veterans, and then specifically since the majority of the veterans here that I was deeply interested in and the ones who have the greatest degree or lack of opportunity to advancement were Mexican Americans, we ended up, although not in the beginning, by being primarily a family veterans group interested in the promise of the veterans regarding especially poverty, hunger, education, and also the giving of scholarships to needy students. This is more or less our charter. We are a family veterans charitable organization.

Q. Was the organization and is the organization concerned primarily with the problems of the Mexican American?

A. I would say primarily so, though not totally.

Q. All right. Are you also familiar with an organization known as LULAC, which has been mentioned here in the record, on occasion?

A. Yes, sir. I am familiar with the Local United American Citizens, known as LULAC.

Q. What is the purpose of that organization? Do you know why it was organized?

A. Basically, it was organized I think in the thirties

about '35, due to the killing of some Mexicans by the sheriff in one of the surrounding counties, which I believe would be Silsbee or Raymondville, where the Mexican Americans were killed, what they thought at that time was unjustifiably, and also of the lack of opportunities and the lack of respect and the lack of education in the area of Corpus Christi is why the LULACS were organized also here in Corpus Christi.

Q. LULAC was also founded here in Corpus?

A. Yes, sir.

Q. When you say lack of education and those other things you mentioned, are you referring to the Mexican American citizen?

A. Yes sir.

Q. All right. Now, Doctor, our purpose in calling you as a witness in this case is to establish or show the Court that Mexican Americans are treated and recognized as an identifiable group witnin the Corpus Christi community and Corpus Christi area and in the Corpus Christi Independent School District. It is with that in mind that I am going to ask you questions concerning various facets of life here in Corpus Christi and in the past, and first I am going to

direct your attention to the schools of Corpus Christi and ask you if you have had occasion to make any study pertaining to the faculty, the teachers, as to the Mexican American teachers and the Anglo American teachers of the school system?

A. Yes, sir. I have at the very beginning, I would say in the latter part of 1948 and '49, we had our first meeting within I believe the superintendent of schools, I think Mr. Baker, and pointed out to him at that time that he had no Mexican American principals and a greatly limited number, a very limited number of Mexican American teachers. We asked them to gc ahead and first increase the number of Mexican American teachers in the school system and to give us our first principal.

He came out with an argument and we did suggest a name. We suggested at that time Mr. Montoya, Gregg Montoya. After that we had secret meetings with different superintendents of the school system in Corpus Christi and again reminded them of what I thought was an unfair imbalance of administrative positions, and also the limited number of teachers were

with Spanish surnames.

As late as 1965 and '66 we had--I presented a paper here at a hearing on the Texas Advisory Committee of the United States Commission on Civil Rights on which I gave the points and which you have asked me right now to develop, that at that time--of course, it went by the Spanish surnames from the school directors itself--found out that out of fourteen consultants there were only two Mexican Americans.

Q. Now, this is for what year, Doctor?

A. '65 and '66 school year.

Q. All right, sir.

A. All right. We went ahead and developed first the median average of educational level of Corpus Christi with a yardstick. Twenty-five years of age or older was below the state level of 6.2 based on the '60 census because in Corpus Christi we had only four and a half grades of school for the Mexican Americans.

Then we went ahead and appointed that on the administrative offices and officers that we had pointed out. In comparison, there were very few, if any. We pointed out that out of

fifteen school nurses, which is the school function, we had only one.

The cafeteria managers, out of fifty-five we had only five. Of the high school administrative officers, which I consider topnotch, involving the high schools of Mary Carroll, Solomon Coles, King, Miller and Ray, with a total of thirty-six, we had none.

We went ahead and studied, broke down the administrative officers of the schools of Baker, Barnes, Browne, Cullen Place, Robert Driscoll, Hamlin, North Side, South Park, Sundeen, Wynn Seale, with a total of 52 administrative officers and only four were Mexican Americans and only one was a principal.

Q. All right. Now, that principal, Doctor, was at which school.

A. I have him here as Wynn Seale.

Q. Now, you also note one assistant principal at North Side School and one assistant principal at the Barnes and one counselor at Barnes.

Were these schools known as predominantly or primarily Mexican schools.

A. I would say so, but definitely not. I would say they are known in what we refer to here

as Anglo schools.

Q. I'm talking about Ella Barnes.

A. Well, of course, in my list here we have schools by eleven, and I would say with the exception of Ella Barnes and North Side it would be what I consider ethnic group of Mexican Americans and also blacks.

Q. All right. Then all of the administrative officers which you have indicated and we have talked about here, they all with the possible exception of one, according to your recollection, would have been in predominantly Mexican American schools?

A. The only two I have besides the principal in Wynn Seale is the assistant principal who I understand would be in the Barnes and the assistant principal at North Side would be the only ones I have.

Q. All right. Now, as far as your teachers are concerned, and I have given to the clerk a copy of this--or I thought I did--well, we will offer it, Judge. We thought it might be helpful if you read it as we talked here.

THE CLERK: Plaintiff's Exhibit 21 is marked for identification.

THE COURT: Admitted in evidence.

Q. You have also indicated on this memorandum that is Plaintiff's Exhibit 21, for the record, that there were a total of 442 high school teachers in the years we are talking about, of which 24 were Mexican American.

A. That's correct.

Q. And of those 24, fifteen taught at Roy Miller High School, none taught at Solomon Coles, two were at Mary Carroll; a shop teacher and a band instructor, two, were at King High School; a shop teacher and a Spanish teacher; five were at Ray High School, four of which were Spanish and one was a physical education instructor, is that correct?

A. That would be correct from our educational study.

Q. I am sure the School Board will correct us if anything in this is not correct.

Now, Doctor, you have indicated that by the 1960 census, and I believe there's already been testimony, with reference to this, that the average education level of the Mexican American in Corpus Christi over twenty-five years of age was 4.5 years of schooling. What

was the figure, if you have it, in the 1950 census, ten years before? Do you have that figure?

A. Yes, I think I do. You are asking me about the Corpus Christi schools?

Q. Yes, sir.

A. All right. I have here that in 1950 census the educational level attained of the same people we are talking about, twenty-five or over, for 1950, was 3.2 grades of school, three and two-ten-tenths.

We mentioned the fact in 1960 we had moved up to 4.5 1/2.

Q. That is over a ten year period?

A. Yes, sir.

Q. All right, Now, Doctor, during this interval that we are talking about, and without mentioning the names involved, do you know of any occasion when Mexican American teachers had taught at predominantly Anglo schools or had tried to teach at predominantly Anglo schools and were presented or transferred from such schools to teach in predominantly Mexican American schools?

A. I would say yes, there were several occasions in which the teachers, and especially some

counselors, came over to see me and said that they were not given an opportunity. I well remember a specific case of a very attractive lady who came over and told me that since she carried an Anglo surname, that --

MR. HALL: Your Honor, we are going to object to testimony of this kind. It is very important to hear the particular person who says that he or she was not allowed to transfer because there are many factors that affect a transfer, or who teaches where, and we don't have the right to examine the witness as to what was said and what was said comes to us through Dr. Garcia. It is hearsay and we object to it on that basis.

THE COURT: I will sustain the objection.

Mr. DeAnda, on particular incidents and personalities whose names are not involved but who cannot be verified to check, I think you understand that--

MR. DEANDA: Yes, Your Honor.

THE COURT: You have laid a sufficient predicate for Dr. Garcia to speak and give

his opinion and conclusions on the general attitudes of Mexican Americans without going into specific personalities or incidents.

MR. DEANDA: Judge, while I'm on the subject of schools, I would ask the Court to take judicial notice of this Court's docket and records pertaining to Diago Chapo, a miner, versus Odom Independent School District, which was Cause 56-C-92, a segregation case involving Mexican Americans.

Also, Judge, Amandes versus Driscoll Independent School District. I don't have that cause number, but I will obtain that for the Court. That was tried in this Court about 1958 before Judge Allred who then sat here. It also involved desegregation of Mexican American children in the public schools.

I will ask counsel to stipulate that Driscoll is in Nueces County, approximately I believe about thirty-five miles or so from Corpus Christi, if that is right, and if you have a different mileage I will stipulate to your mileage.

MR. HALL: I have no idea where it is in terms of miles. We will stipulate the Cities of Odom and Driscoll--

THE COURT: Odom and Driscoll were both on the docket of this Court and they both involved integration of Mexican-Americans into Anglo schools, and both of these schools are in proximity to the Corpus Christi Independent School District.

MR. HALL: Does he mean the whole record in judicial notice?

THE COURT: I think he only means that I take judicial notice heretofore there has been suits filed in these two incidents where Mexican Americans were complaining in this area of discrimination by the Anglos against them in the public school system.

MR. DEANDA: If the Court will take cognizance of the judgments as to the holding and as to the substance of those cases.

THE COURT: Well, we can do that.

Q. (By Mr. DeAnda) Doctor, you are a medical doctor. I will ask you if there has ever been

in Corpus Christi any distinction made as far as Mexican Americans are concerned as between Mexican Americans and Anglos in either hospital records, health records, or in the treatment of people of Mexican decent in the the hospitals in Corpus Christi?

A. Definitely there has been. There was always a separate division or classification of the Mexican American and the rest of the patients at the Memorial Hospital, which is the City-County Hospital, and until as late as, I would say, as the latter part of '67 or the beginning of 1968. We are classified and treated as a separate class or group. We were divided. The records indicated it and some birth certificates have indicated it.

I have had some beginning in '48, '49 and '50--I had some bad experiences involving some serious separation or denial of beds to Mexican American patients because although there were beds available at that time in the so-called Anglo wards, because the Mexican ward would have been filled up these patients were placed out in the hallway and this was to me a terrible experience.

In 1949 I brought it to the attention of the fact you have an empty bed in the so-called Anglo ward. Then of course the policy was simply that they were not going to put no Mexicans with the Anglos. Then of course it persisted, the division in records and classifications on admissions were always white for the Anglos and, of course, Mexican Americans or Latins for the Mexican Americans.

As early as 1965 a memorandum was circulated there by the administrator of Memorial Hospital that no Spanish shall be spoken unless it directly involved whoever was speaking. This I brought before the Board of Directors of the hospital.

We constantly brought this thing up, but of course, the most shocking experience was the fact that at that time when I came out of the service, which I had served also as a doctor, that I come and face this thing in a hospital in Corpus Christi.

I have here some statements as early as '58 wherein the Spanish surname persons--and this was involving a child seven months old, was classified as a Mexican and all the way up

through, as I say, in 1959, the same thing, until the latter part of '67 or '68.

I notice here in the records again where the Anglo patient was classified as race, white, and we have here some emergency room slips that more or less would show the same thing.

Q. Doctor, let me ask you this: You did mention at one time there were actually separate facilities in the Memorial Hospital, which was a County facility, for Mexicans and Anglos.

A. In 1946 on up when I started practicing here in Corpus Christi, Memorial Hospital had separate wards, surgical and maternity. I can't recall pediatrics. But certainly the maternity sections were divided and the surgical sections were divided.

There was a Mexican American, Anglos, and the blacks that were divided three ways.

Q. I have marked for identification as Plaintiff's Exhibit 22 a number of birth certificates filed in Nueces County. I think these are some from Robstown, Your Honor, and Corpus Christi. I don't know if they are equally divided or not.

These birth certificates show, Doctor,

that under the place which indicates "color or race", there is Lat. Am., which I presume means Latin American, and so on where the word Mexican appears for color or race. Is that what you were referring to, Doctor, when you testified earlier about birth certificates?

A. Yes, this is what I was referring to.

Q. Looking at the names on those birth certificates, are those Spanish surnames? I am again referring to Plaintiff's Exhibit No. 22.

A. Yes, definitely the ones I had seen here, and I would say all of them were Spanish surnames, the ones I have seen there.

MR. DEANDA: Your Honor, I don't know if I recall offering Exhibit 21. I now offer Exhibits 21 and 22 in evidence on this issue.

THE COURT: Do you have any objection to that?

MR. HALL: What is Exhibit 21, Mr. DeAnda?

MR. DEANDA: The statistics Dr. Garcia was talking about.

THE COURT: Plaintiff's Exhibit 21 is admitted in evidence and Exhibit 22.

Q. Now, Doctor, I will direct your attention to the public offices and holders of public officers. Have Mexican Americans here in Corpus Christi and in this area held public offices in any proportion to their numbers here in the community?

A. I would say the Mexican Americans have held public offices in the community, but never by any stretch of the imagination in proportion to their representation, either as scholastic students or by inhabitants in this area.

Q. Well, let me ask you, has there ever been a mayor of Corpus Christi of Mexican extraction?

A. As far as I recall, no. there has never been a Mayor with a Spanish surname in Corpus Christi.

Q. Do you recall when the first Mexican American City Councilman was elected, approximately?

A. It was Dr. Manuel Maldanado. I recall he was in the later fifties or beginning sixties. I don't recall exactly when.

Q. Well, it would be in the fifties, Doctor.

A. I would say yes, in the late fifties or early sixties.

Q. All right. Prior to that time, to your knowledge

had any Mexican American been elected to the City Council of Corpus Christi?

A. No, sir. We tried real hard, but we could never achieve success. We were batted down. We were just held down by massive resistance from the controlling factor.

Q. All right. How about other public agencies? How about Delmar College, was there ever any Mexican Americans on the Board of Delmar College, which is our local college here in Corpus?

A. There has been, I think, two Mexican Americans on the Delmar Board of Corpus Christi.

Q. And when was the first time that a Mexican American ever served on the Delmar Board, to your knowledge?

A. I can't recall exactly when it was.

Q. While we are talking about Delmar College Doctor, in elections involving Delmar College has the issue ever been raised as between whether or not a candidate is of Mexican origin or whether he is Anglo?

A. Yes, sir. It definitely has been raised. On several occasions, and involving some serious tactics and definitely in paid political

advertisements. We have been classified as not only a separate ethnic group, but also as a separate race. They were both involving the Delmar College, and also involving the Corpus Christi election, because this type of advertisement, I went over there and corrected the members of the Board, some of them who were ignorant of the fact we were Caucasian and two of them, very distinguished citizens of Corpus Christi--and we protested the Corpus Christi Caller advertisement on Friday, April 6th, wherein in about six places they classified us as a different race.

Q. Doctor, I call your attention to Plaintiff's Exhibit that has been marked Exhibit 23, which purports to be a copy of an article that appeared in the Corpus Christi Caller Times on April 6, 1962, with reference to a Delmar election. Did that article receive wide dissemination here in Corpus Christi?

A. Yes, sir; it certainly did. It received quite city-wide dissemination. Not only the newspaper informing them of the fact about certain elections coming up involving the election of candidates

for reasons of race and without regard to comparative capabilities of candidates.

MR. DEANDA: Your Honor, we would offer late evidence Plaintiff's Exhibit No. 23, to which the doctor has referred, which I will present to the Court.

THE COURT: Plaintiff's Exhibit No. 23 is admitted into evidence.

MR. DEANDA: I have the actual photocopy, Judge, of that particular advertisement, but it was done very poorly. It is at the Public Library, so we retyped it. But I am going to offer this as Exhibit 23-A, just so that in case anyone want to compare it--

THE COURT: 23-A is admitted into evidence.

THE CLERK: Plaintiff's 24 marked for identification.

Q. While we are on the subject of elections, Doctor, I will now refer to School Board elections. I believe we presently have one member of the School Board who is a Mexican American, is that correct?

A. That's correct.

Q. And for what period of time do you recall that there has been one Mexican American on the School Board?

A. I would say up to about 1950 there was one. At the period between 1950 and perhaps '60 there were two. Now there's only one.

Q. You were talking about the Corpus Christi Independent School Board, there were two Mexican Americans on the Board?

A. That's right.

Q. Referring to Exhibit No. 24, Doctor, which again is a political advertisement of some kind, I will ask you if you are familiar with and if you have seen that particular advertisement before?

A. Yes, sir. I have seen this entitled "It Can Be Later Than You Think," an article involving the school race, on Saturday, April 1st, 1950.

Q. Do you recall it was 1950?

A. That's correct.

Q. This particular article purports to state that there has been one Mexican American or Latin American on the School Board, and separately referred to some effort to put more than one Mexican American or Latin American on the School Board, and speaks of having more than

one and the unfairness of having more than one Mexican American or member of the Latin American race on the school board?

A. This is correct. It says here, "Now, and for many years past, our Latin American friends have had one of their own race on the School Board --as is frankly agreed by all fair thinking people that they should have. However, this present Latin American member still has two years to serve on his current term, and naturally it was thought that our Latin American friends would make no attempt to put an additional member of the School Board at this time--and certainly not for the specific purpose of attempting to defeat an experienced Anglo American member for a second term."

MR. DEANDA: Without reading the entire advertisement, because we are intending to offer it in evidence, we will offer it, Your Honor.

THE COURT: It is admitted, Plaintiff's Exhibit No. 24.

Q. Doctor, how about other government agencies, apart from the ones you mentioned, such as law enforcement agencies--I refer specifically to

the Corpus Christi Police Department and the Department of Public Safety of the state in this area--did they customarily consider or identify Mexican Americans as a separate classification from other whites?

A. The classification of the Mexican Americans as a separate group, of course, according to them a separate race, was a constant thing here prior to about '52. It carried on until the latter part or middle part of the sixties. We have had, and I have here with me, classifications of the Nueces County Health Department in 1957, when we had the Texas Department of Public Safety classification, classifying us as a separate race.

THE COURT: When was that?

THE WITNESS: In 1957, I have one from the Nueces County Health Department, '57. We have the Texas Department of Public Safety in '50, the Texas Department of Public Welfare in '50. The one in 1957 involves a referral slip by the Corpus Christi, Nueces County Health Unit classifying the Spanish surname person as a race, the Latin American, and the Department

of Public Safety in 1950 on a ticket given to a Spanish surnamed individual has a classification of race, Mexican.

The Department of Public Welfare on a determination of aid to welfare show a Spanish surnamed lady classified under the race or nationality of Latin.

Q. Doctor, without going into each individual case, was there a practice say of the police department or the Department of Public Safety here locally that whenever they had occasion to issue a traffic summons to a Mexican American citizen they would note on the space provided on the summons for race that the person was Latin American or Mexican?

MR. HALL: At what time, Your Honor?

Q. Has this happened in the past?

A. It has happened in the past. Definitely it was the practice. In the early fifties we took it up again with all the people. We wrote them letters.

Q. Now, because of this practice did you have occasion to have meetings or correspondence with various officials that might be involved with these agencies?

A. Yes, sir. We did. We had constant correspondence. Every time a case would come up we could write them. We wrote to Homer Garrison about the classification by the Department of Public Safety. We had meetings with them.

Q. Would there be responses to these complaints?

A. There would be responses to the complaints, yes, sir.

Q. All right. Now, Doctor, we have mentioned here in this case on various occasions the concentration of Mexican Americans in particular areas of the city. While there may be various factors involved that bring this about, I would ask you whether or not you know of any practice in Corpus Christi to restrict or prevent Mexican Americans from living in particular areas of the city?

MR. HALL: Again, Your Honor, at what time? It seems to me if we are going into periods of time ten and fifteen and twenty years ago, we are now dealing with things that are relevant with what exists today.

THE COURT: I think that is true, Mr. Hall. Why don't you, if you are going to show a pattern, Mr. DeAnda---

MR. DEANDA: I will show a pattern.

Judge, which I intend to, which are restrictions that were filed as late as I believe as about-- here is one. Let me back up, Your Honor.

I want to offer into evidence Plaintiff's Exhibit No. 25 which consists of restrictions in various additions, residential additions in the City of Corpus Christi, which restrict, which have racial restrictions in them and which included expressly in these restrictions is that -- let me just read one for you, Judge, and I am reading from Plaintiff's Exhibit No. 25--

MR. HALL: May we have the date, counsel?

MR. DEANDA: This is from 1946. May 14, 1946, is when this particular record was filed. It is to last until January 1, 1970, according to its terms

A restriction in the particular area involved, which in this case was Best Addition, to this effect, that no tract, lot or part of lot in said subdivision shall at any time be occupied as used by

any person or persons not of the Caucasian race except that this covenant shall not prevent occupancy by domestic servants of a different race while domiciled with an owner or tenant. This provision shall be construed as excluding from occupancy in said addition, Mexicans, Latin Americans, Negroes and people of the yellow race.

This exhibit, Your Honor, contains a series of these instruments which were taken from the Nueces County Clerk's office records and involving various subdivisions.

THE COURT: Plaintiff's Exhibit 25 is admitted in evidence. You don't have to read it in full.

MR. DEANDA: I didn't plan to, Your Honor.

I believe the next one was filed in 1940. There is also one filed here in 1943. There is also one filed in 1948, 1949, 1946, Judge.

Q. Apart from these particular deeds and these restrictions, Doctor, that we have referred to, do you know of your own knowledge whether or not there was a general practice in the City of

Corpus Christi to a large extent to restrict Mexican Americans from living in particular areas?

A. I would say that very certainly the restrictions that have been put in black and white, the written words, does not carry the whole intent and purposes of trying to discourage and prevent Mexicans and other minority group members from living in the area. It is also the spoken word, the attitude. I had a very good friend of mine who in 1964, a schoolteacher, was denied by all kinds of methods and means and ways of trying to buy a home in the Glen Arbor Subdivision at that time, and we had excuses that at first the FHA would not accept a loan from a Mexican American in that division or subdivsion.

We had affidavits here that even a woman who was part Mexican who is married to an Anglo man who is total Anglo would be refused houses.

We went into the real estate, we went into the housing, we went into cafes, we went everywhere, but the fact the restrictions, they were there, because where the word "Caucasian" was spelled out in writing, it will not include us.

Then later on, even if it were not out

into effect by the fact they couldn't pass the examination or the payments or the FHA would object to them, some nieghbors also called them--"Don't you know these people are Mexicans?"

It was the general intent and purpose that Mexicans would not be permitted to live in the more exclusive districts at that time, in early 1964, to move in those areas.

Q. All right. Doctor, have you through the years received complaints from various people who have been denied not only to purchase homes, but even to rent in particular areas of Corpus Christi because they were Mexican Americans?

A. Yes, sir; we have--and I have.

Q. Let me ask you about draft boards. Have you had any Mexican Americans serve on the draft boards here locally?

A. Mr. DeAnda, in 1949 the draft board issue was brought to a sudden front because the clerk accused Mexican Americans of not passing the examinations because some of them can't speak English. Naturally, this is based on the fact that in Corpus Christi out of 21 men examined only two could pass.

In Robstown, out of 67 only one would pass.

Out of the first 73 men in this area there were only five who did pass because of their English deficiency or limited knowledge of the English language.

Of course, this certainly upset me very much because we had just returned from the service and we know Texas had fifty percent of the Congressional Medal of Honor members who were Mexican Americans, and while the draft board only dealt with the draftees, the Marine Corps was practically 50 percent volunteer Mexican American.

Among the things that upset me at that time, we didn't have a single Mexican American on the draft board here.

Q. You are speaking of the period immediately following World War II?

A. I am speaking of the period as of 1943, and prior to that we had never had any Mexican American draft board member here.

Q. Then when this was ascertained, was there protest made to the proper authorities concerning this problem, concerning the fact there were

no Mexican American on the board?

A. Yes, sir. I protested not only the fact here we had no Mexican Americans, but generally speaking as far as I know about it, throughout the State of Texas.

In '48 I doubt if there were more than four or five Mexican draft boards in the whole United States.

I wrote the President of the United States, the Director. I did not want any state draft boards recognized because they were in violation of the Commendations of the Law of the Draft Act.

As a result of that we got here in Corpus Christi Mr. Ontiveros, and in Robstown Mr. Lopez, and that was the beginning.

At that time--after that the government decided to put a few of us Mexican Americans on the draft board.

Q. Doctor, would it be fair to say that generally where people have been appointed to boards, government boards, school boards, that generally it has been because of protests and action on the part of the Mexican American community?

A. It has been about the only way, because as far as

permission and appealing to reason and logic, compassion and understanding, it has been a great failure.

Q. Let me ask you this question, Doctor: In your opinion, are Mexican Americans treated and have they been treated as a separate group or classification apart from other whites or Caucasians in Corpus Christi and in the surrounding area?

A. Definitely so, Mr. DeAnda.

Q. Is there any question about that at all in your mind?

A. There is no question in my mind about that.

THE COURT: I would like to have the last question, please.

(The reporter read the question as follows: "Let me ask you this question, Doctor: In your opinion, are Mexican Americans treated and have they been treated as a separate group or classification apart from other whites or Caucasions in Corpus Christi and in the surrounding areas?)

"ANSWER: Definitely so, Mr. DeAnda.

"QUESTION: Is there any question about that at all in your mind?

"ANSWER: There is no question in my mind about that.")

MR. DEANDA: I meant to say in the surrounding area, Your Honor.

Pass the witness.

CROSS EXAMINATION

BY MR. GARY:

Q. Doctor, Garcia, you have given your residence as 410 Peerman Place. Could you tell me on Plaintiff's Exhibit 4 approximately where that is located?

This is Dodderidge Street, and this is Everhart.

A. Let's see, I would say--where is Almeda?

Q. Almeda must be about in here.

A. I would say it would be in this area here? (Indicating on exhibit)

Q. The doctor is pointing to Zone 38, which is the

Robert T. Wilson Elementary School zone.

When did you move to this location, Doctor?

A. I would say in the sixties.

Q. In the 1960's?

A. Or so.

Q. You say that you came to Corpus Christi in 1946. Where did you live in the first period of time?

A. In Ohio Street.

Q. Ohio Street is approximately how many blocks off of Louisiana?

A. I would say about one block, a block and a half.

Q. Is that considered to be in the south part of town from the standpoint of direction from the city?

A. Yes, sir. It is.

Q. Is that fairly close to the location of the home of Mrs. Ann Bright who lives at--I think her address is on Ohio? Here is the 400 block of Louisiana. You were within what, about four blocks at the most from that particular location, Dr. Garcia?

A. I wouldn't know where she lives, but according to what you say, it would be about right.

Q. The Ohio address is in Besser Park.

A. I really don't know.

MR. GRAY: While I have this witness on this particular point, Your Honor--

MR. DEANDA: If you state what you are trying to establish, perhaps I can stipulate it.

MR. GRAY: I am trying to establish the first location in the school zone in 1946, which was when the doctor moved on Louisiana Street--can we stipulate or agree it was somewhere in the neighborhood of what is presently 25 or 13? You are going to have to figure out which one it is--25?

MR. DEANDA: Whereever it is, I will stipulate it is whereever it is.

Q. In other words, Dr. Garcia, you moved into an elementary area that is known as the Menger School area, which shows on Plaintiff's Exhibit 4-A in light green color. We have established your location, Dr. Garcia, as being in an area No. 25. We have estabished your initial residence in 1946 in the City of Corpus Christi as being in the area shown on Plaintiff's Exhibit 4-A as No. 25, which is the Menger School zone.

A. That is wrong.

Q. Which school zone was it at that time, Dr. Garcia?

A. Well, in the first place, I said I got here in '46, but I didn't live in Ohio at that time. I lived in a hotel.

Q. You lived in the hotel?

A. Yes, part of a second story building in the Lozanos, at Staples and Agnes.

Q. And what time did you move?

A. I don't know. I would say it was about '46 or '47. Then I moved into Ohio.

Q. So in about 1948 you moved to Ohio Street?

A. That's correct.

Q. So it was 1948 you moved in the area that is currently the Menger School Zone?

A. I don't know about the school zone at that time. There was practically no buildings there. As I know, you know my children didn't go to that school. The location is correct.

Q. On our particular map, for identification purposes only, it is currently the Menger School.

A. Fine, if you say so.

Q. All right, sir. Didn't you move, Dr. Garcia, because you could afford to move there?

Q. Did I move because I could afford to move there?

A. Yes, sir.

Q. Yes, sir.

A. And again, Dr. Garcia, don't you live at 401 Peerman Place because you can afford to live there?

A. Certainly.

Q. Is anyone saying you can't live there?

A. Oh, I had trouble getting the lot. Brother, I had troubles. I had to get a good friend to get it for me. Prior to that I could afford to another area and every time we wanted to buy the lot, it was just a lot, they would say, "No, it's taken off the market."

Well, it would be put on the market again and we would try to move there and it was taken off the market.

Let me finish. You asked me. So we gave up.

Coming out of the army, you know the old sack--it makes no difference to me even now--but my family wanted to be close to the St. Patricks because that is where they were going to school. Well, I didn't want to go through

this thing again of being denied a lot. I say, "We are going to have to go in the area which is now Peerman which is already developed."

I had a good friend who was not identifiable as a Mexican American who got me the lot. It was rough.

Q. Do you have any neighbors now at 401 Peerman who are Mexican American, as you define them?

A. I would say we have some, yes, sir.

Q. Did they acquire their homes recently?

A. I would say they acquired them after I moved in. That is as much as I know.

Q. Do you know approximately--are you familiar with how much difficulty they might have had in moving into the particular--

A. They had some, yes.

Q. Let me ask you, Dr. Garcia, do you have a brother and a sister who are both doctors?

A. Doctors of medicine. There are differences of doctors, you know.

Q. In other words, they are doctors of medicine?

A. Yes, sir.

Q. You have a sister, Clotilde Garcia?

A. My sister.

Q. And you have a brother, Dr. J. A. Garcia?

A. That is my brother.

Q. Could you give me the addresses of these people?

A. I know Clotilde lives in Ocean Drive. Dr. J. A. lives here in Succets someplace.

Q. Did Dr. J. A. Garcia, for example, ever serve on the Delmar College Board?

A. Yes, he did.

Q. Does your sister currently serve on the Delmar College Board?

A. Yes, she does.

Q. How many children do you have, Dr. Garcia?

A. Well, I have four, but one of them got killed in an accident in Mexico, my son, and then of course that leaves only three daughters.

Q. Did the three daughters go to schools in the School District or parochial schools?

A. St. Patricks, and then Incarnate Word Academy.

Q. They went to parochial schools?

A. Yes, sir.

Q. And what hospital or hospitals do you practice, Dr. Garcia?

A. Mostly now at Memorial Hospital.

Q. But you can or do practice in others?

A. I can practice in any hospital in the City.

Q. All right, sir. You were discussing your being

founder of the American GI Forum. Are you acquainted with a veteran by the name of Joe Garcia?

A. There are a lot of Joe Garcias.

Q. This is a World War I veteran. Are you acquainted with him?

A. I understand Joe Garcia's office to be in Leopard Street.

Q. Does he belong to a particular group of GI's or veterans?

A. I think he belongs to most all organizations, yes, several of them.

Q. Do you know of any particular one or more--I will ask the question, do you know whether or not he belongs to a particular post of the American Legion?

A. From what I can get from newspaper articles, he does belong to a particular post of the American Legion, one of them.

Q. How about Mr. Tea Gonzales, are you familiar with him a World War I veteran?

A. No.

Q. Do you know Arturo Vasquez?

A. I know him.

Q. Is he a member of the School Board?

A. He is the only Mexican American member on the Corpus Christi School Board.

Q. Do you know how long he has been on the Board?

A. Maybe ten, perhaps fourteen years.

Q. All right, sir. Do you think with the political makeup of this city he could be elected solely by the Mexican American people?

A. He could, yes. He definitely could. I think that is how he got in.

Q. Has he been--

A. Yes, he has.

Q. Let us take the most current election.

A. You asked me a question and I gave you an answer.

Q. I will ask you one question about initials. Now, I will ask you over the past few years has the voting, the constitution of the voting, been such that he could have won solely with the vote of the Mexican American people?

A. He could have--the South side goes into block voting because of his race, religion, ethnic background or Spanish surname--he could except the South side goes block voting against a person with a Spanish surname.

Q. Are you telling me the South side block voted against Dr. Vasquez?

MR. DEANDA: Your Honor, I haven't objected to this, but I don't think it is relevant as to who is going to vote for whom, speaking of a particular election. The only issue before the Court and the only issue upon which the doctor has testified is as to whether or not the Mexican Americans are an identifiable group within the community.

You can be an identifiable person and still get people to vote for you.

I don't think that could contribute to anything in particular to the issue before the Court and I don't think it would be relevant. I would object to it for that purpose, Judge.

MR. GARY: The purpose of this particular questioning, Your Honor, is that what might have been true in 1943 is not necessarily true in 1970, and we have a Bohemian Colony Tract that might have the same treatment in 1930.

THE COURT: Dr. Garcia, in your long experience here, your involvement in trying to help your people of the Mexican American

descent or Spanish American surnames, have you been making any progress? Are things getting better now for you?

THE WITNESS: Yes, sir. They are.

THE COURT: Are more people holding public office, more people appointed to boards?

Relatively so, yes, sir.

THE COURT: And that is taking place now?

THE WITNESS: No, not right now. I think--

THE COURT: Do you think you are in a period where you might have lost a little ground now?

THE WITNESS: I think, Your Honor, the feeling of the community and the State and the nation is one against minorities. I have been deeply involved in all levels of this matter. I can say yes, we have made progress--I can't deny that. But I think pay- the horrible price of going

to suits and cases, Federal Courts, and having to have practically a verbal confrontation and innuendoes--we have never received a fair proportion of representation in practically anything.

THE COURT: Well, now, Dr. Garcia, don't you think that we could go out here and find some Mexican Americans who would say just the opposite, who have made it, so to speak, in the Anglo culture, and they would say there has been no discrimination and they have made it, and I think they used the term in here the other day of "professional" --what was that term? I never heard it before. It was something like professional and everybody looked at Jim DeAnda. What was that word?

MR. DEANDA: I was looking for my witness, Dr. Carter. I don't know if it was a term he used or if he knows what we are referring to.

THE COURT: I thought he said professional Mexican. I thought everybody looked at you, Mr. DeAnda. You live out in a very affluent neighborhood, don't you?

MR. DEANDA: Yes, sir. I guess more than other neighborhoods, Your Honor.

THE COURT: Very well. Now, Dr. Garcia, you have demonstrated by your testimony that there has been a pattern of discrimination, in your opinion that that is being minimized somewhat but it is done at a high cost, I believe you said?

THE WITNESS: That's correct.

THE COURT: Rather than on a loving concern and a sweetness, it has been done in confrontation and power politics and protests and like that. Now, do you see any improvement, though? I mean, do you see where the Mexican Americans in this community are being accepted as a human and equal in the last few years?

THE WITNESS: Well, Judge, let me say this: I swore to tell you the truth and I am giving you my opinion. This is like the old iceberg. Up here on the surface you see what it is. One-eighth of whatever we have achieved out of the surface, all is well. Underneath, the other seven-eighths it is loaded. It is dynamite. There

is no understanding, there is no love, there is really no sincere love between the Anglos and Mexican Americans. There are professionals that have achieved success but also physiologically there are some of us that have such a glandular mark, and I am one, that nothing stops us.

I think in spite of illiteracy we have achieved. It was not the education; it was the physiological glandular makeup of the individual.

THE COURT: But don't you see a little progress?

THE WITNESS: Yes, sir. I say the progress is there.

THE COURT: Does the progress come from the heart, or is it forced?

THE WITNESS: That is it, it is forced. That is the harsh thing about it. It has been forced by tremendous feeling of frustrations and helplessness and lack of love and understanding. It has been forced all the way.

MR. GARY: May I ask Dr. Garcia a few more questions?

THE COURT: Yes.

Q. (By Mr. Gary) Dr. Garcia, you were talking about the LULAC and it was formed for the purpose of helping the Mexican American people. Did this use force to get a cooperative program going last year with the School District?

A. I didn't understand your question.

Q. Are you aware of the cooperative venture between the LULACS and the Corpus Christi Board of Trustees with respect to the dropout problem that was instituted last year, year before last?

A. I have read about it, yes, sir. I am not that much well aware about it.

Q. But you are aware that it might exist or does exist?

A. I am aware only to the fact that it was published in the newspaper.

Q. Are you an active member currently of the LULAC organization?

A. No, sir. I am not an active member right now.

Q. All right. As long as we are talking about getting together, have you been reading newspapers lately?

A. Sometimes--I'm sorry, but I go back as far

as two weeks without reading the newspaper. When I go on a trip I may take with me back as much as three months issues I have not read. I can then glance at the newspaper.

I don't necessarily read them. Sometimes I'm not that much up.

Q. I should have asked you the question, are you familiar with Mr. Oscar Soliz' ad running in the paper?

A. Yes.

Q. Could you tell me what the ad says?

A. I can say only that he is appealing to the people to help elect him for the District Clerk's job.

Q. Doesn't the title say, "Let's Pull Together"?

A. I guess it must say so.

Q. Is it signed by predominantly Mexican American, Anglo, or both?

A. I think both, but I don't know the proportions.

Q. Do you think that was forced, Dr. Garcia?

A. I don't know. You have to ask Mr. Soliz.

Q. All right, sir. Now, getting away from the generalities and getting back down to the teachers, you gave us some data that related to the 1965-66 makeup of the Corpus Christi Independent

School District on teachers and counselors and this sort of thing. Are you currently familiar with those ratios, Dr. Garcia?

A. Not exactly up to date on those ratios. I know there's been some improvement made on the number of people. I don't know exactly how much you would want me to be up on this matter.

Q. No, sir. I was just asking you if you were really familiar with the actual measurable progress that may or may not have been made over the past three or four years?

A. I'm not up to date on it, no, sir. I know there is progress made and I know more assistant principals have been assigned and I know some more principals have been assigned, so I think there has been some progress.

Q. All right, sir. Now, getting to the hospital records, I probably should ask counsel for the plaintiffs whether these constitute all of the records they could find that might mention the word "Latin American" or "Mexican American"?

MR. DEANDA: I did not make the research myself. It was made out of my office. Are you talking about the hospital records?

MR. GARY: I am talking about Plaintiff's Exhibit 22, the birth certificates.

MR. DEANDA: They are not every certificate that was in there, by a long shot. There were other certificates, many certificates. I didn't make the examination but there were many certificates, especially of more recent origin that describe Mexican Americans as members of the white race, if that is what you are getting at.

Q. In other words, the last date we have here that mentions Latin American or Mexican American is 1949.

MR. DEANDA: I wouldn't say so. We didn't look over all the records. I would say from what I have found out through associates in my office is that I would say certainly in the sixties that it was almost always acted on there as white. The notation was made in the birth records as white.

THE COURT: Then I assume they are using the white race to describe the Mexican American today in the hospitals here?

MR. DEANDA: I don't know.

THE WITNESS: I would say out of '68-69, '69 and '70, they leave the entry of race blank. As late as 1962 they were still classified as race, Mexican Americans or Latin Americans as late as '62.

Q. (By Mr. Gary) Dr. Garcia, would you examine Plaintiff's Exhibit 22 and actually tell me how many of those folks were actually born in Mexico? I think it will show--I think I have encircled it for you, Dr. Garcia.

A. Well, I don't think any of these children were born in Mexico, none.

Q. No, but it says--

A. You asked me.

Q. It says, "Birth place," under Section 12 of the statement--It says "of the father."

A. Oh, the father. I thought you meant the children.

Q. I didn't ask the question properly, Doctor.

A. That's all right. You have been good.

Q. So in identifying these people, the clerk who saw these people were born in Mexico and classified them as Latin Americans or in some cases Mexican Americans, is that correct, Dr. Garcia?

A. According to this thing, yes, sir.

MR. GARY: Your Honor, also while we are on this particular point I would like to also refer to Plaintiff's Exhibit No. 21, which is a compilation of statistics.

Q. Do you have a copy, Dr. Garcia?

A. Yes, sir.

Q. It is Plaintiff's Exhibit No. 21 that purports to be certain data on the median years of school completed by ages, and these are from 1950 and 1960 census of people who were twenty-five years of age and over.

I will ask you this, Dr. Garcia: Do you have any more current figures on the data which is shown here in Plaintiff's Exhibit 21 with respect to the educational accomplishment of the Mexican American adult? That is what we are talking about in these figures.

A. All right. They give you the breakdown and a little later on the Corpus Christi states--

MR. HALL: Your Honor, I wonder if I might clarify that question a little bit.

THE COURT: Yes, Mr. Hall. Please do.

QUESTIONS BY MR. HALL:

Q. Dr. Carter who testified earlier referred to this same median years of school completed by persons twenty-five years of age or over.

Now, the first thing that we are talking about when we say median, we mean that half of the people has completed more and half of the people has completed less, right? Is that correct?

A. You are only talking about--well, on the norm curve, I guess you would. The median would be the half of the middle of the curve on your graph.

Q. We are not talking about average now, we are talking about median, and statistically you have used the word median here in your statistics. Statistically median means half have completed more than four and a half and half have completed less than four and a half.

A. That would be correct.

Q. Okay. Now, something else about the statistics is that this is a survey only of those persons who are twenty-five years or more, isn't that correct?

THE COURT: On its face it shows that.

A. Yes, sir.

Q. All right. And you said that in 1950, the median years of school completed for persons of twenty-five years of age or more was 3.2, did you not?

A. That's correct.

Q. And then ten years went by and at the end of ten years in 1960 the median number of years was 4 1/2 years, wasn't it?

A. That's correct.

Q. Now, many of the children who have gone to school in that tenyear period, the whole ten years, wouldn't be included in that survey at all because they weren't twenty-five years of age, yet, isn't that correct?

A. They could have been fifteen.

Q. They would just be twenty five, wouldn't they?

A. Yes, but fifteen--you see, fifteen, sixteen, seventeen, eighteen, nineteen and twenty who still might be in the school system here.

Q. Could be, but the important thing is that the measure was only of people who was twenty-five years of age or greater, isn't that correct?

A. This is the yardstick, yes sir.

Q. All right. And so in that statistical survey you were eliminating many of the younger children and younger people twenty-four and less who had gone to school perhaps the full twelve years and you were including people who were thirty, forty, fifty, sixty, seventy years of age, correct?

A. Of course, I took that report from two census figures, and also the census figure is what they used--that is what they used. I didn't do the survey myself. I want to explain that. I didn't do the survey myself. I took it from the way it was given.

MR. DEANDA: Your Honor, If I may interpose an objection. It may save a little time. The 1950 census shows the figure to be 3.2, I believe, for the Mexican American; 9.4 for all the population; and in 1960 it would be 4.4 for the Mexican American, is that correct, and 12.2 for the Anglo population, and these are Conpus Christi computations for these two periods 1950 and 1960.

THE COURT: Mr. Hall, why don't we

do this? Those figures are available in many places and the Court knows the difference between median and average. I don't think it is important.

MR. HALL: I just wanted to bring out, Your Honor, that the disparity is explained by, for example, the birth certificates showing many of these people born in Mexico, and so forth, which undoubtedly has a factor on these figures.

THE COURT: In studying statistics they used to call them "Damned liars and statisticians."

MR. WOLF: May I point out to Your Honor, so we don't go awry on figures, Plaintiff's Exhibit 8 is an exact copy of the census tract for Corpus Christi and it includes the registration in the various grades. It also includes the median figures for persons of twenty-five years and older and breaks it down into the number of school years completed in elementary and high school and college, and then gives the median, so these figures are here before the Court. They are here and they are

available to Mr. Hall in Plaintiff's Exhibit 8.

THE COURT: Let's don't get mad about it.

Do you have any other questions to ask Dr. Garcia?

MR. GARY: Yes, sir. I have Plaintiff's Exhibit No. 24 that relates to the School Board. I don't have a date on it and I would like to clarify the date.

MR. DEANDA: It was 1950, I believe.

Q. (By Mr. Gary) Is that your information Dr. Garcia?

A. 1950 is the date. Is that about Mexican Americans at this time? It is more like Americans. Is that what you are referring to?

Q. No, the other one, '62.

A. That was 1950. That was Dr. Phillip's case.

We had to shoot him because of the election.

THE COURT: That is hard to realize that in 1950, twenty years ago.

THE WITNESS: It seems a long time.

THE COURT: Almost a quarter of a century.

THE WITNESS: And so little progress

made.

THE COURT: Mr. Gary, we are going to have a recess. We will have a ten-minute recess

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(Short recess)

THE COURT: You may proceed, Mr. Gary.

Q. (By Mr. Gary) Dr. Garcia, you mentioned that a Mexican American had not been elected mayor in the City of Corpus Christi. Has a Mexican American run for the position of mayor in the last ten or fifteen years?

A. Not that I know, no, sir.

Q. Even though this may be speculative, Dr. Garcia, could you perhaps estimate or guess why Mr. Soliz chooses to run at this time for District Clerk?

MR. DEANDA: I object to that as being wholly irrelevant and being very speculative.

THE COURT: How is that relevant?

MR. GARY: I will withdraw the question, Your Honor.

Q. Dr. Garcia, if you will look again at Plaintiff's Exhibit 4-A, which shows the various elementary schools in the City of Corpus Christi--and you have practiced medicine in this city for the last fourteen, sixteen years, have you not?

A. Yes, sir.

Q. Are you familiar with the economic make-up of the city?

A. I would say.

Q. Where the better houses are, the most expensive, and the middle-class houses and then the lowest price houses?

A. I would say so, yes, more or less.

Q. Would you say that the dark green area represents the concentration of the least expensive homes in the City of Corpus Christi, as compared to the areas which are striped or hatched and the areas that are in the light green?

In other words, if you were treating a patient out here along Weber or Dodderidge, would you expect him to live in a considerably better home than someone that might live in the middle of town say in Section 20?

A. My office is in the worst port area. I would

very seldom see these patients. I treat mostly poor people.

Q. You are talking about this poor area, an economic area, is that not correct?

A. I would say an ethnic segregated area.

Q. Do you have any patients that live outside this particular area?

A. I have patients from all over the county and out of the county.

Q. These patients that are out of this particular area where your office is, do you ever visit them in their homes or make house calls or do they come to your office?

A. Most of them come to my office.

Q. Do you know where their residence is?

A. I would say so.

Q. Would you say the patients in the light green areas on the map live in considerably more expensive homes than those who live in this area?

A. Yes.

Q. In the area of the dark green. All right.

A. There, again, in this area here, I am more familiar with the area, your dark green area north and north of Port, and probably five or

six south of Port.

Q. You are talking about the areas that are marked with the 1-A, 20, 37, 9, 4, 23, 43, and 2 and you recognize of course, Dr. Garcia, this area here is not in the school district, so it is not to be considered in this particular--

A. It involves all the areas in the city, though.

Q. I did understand you to say, however, the people in this area marked with the light green, would you expect to have them live in considerably more expensive homes than those in the area marked by 1 or by 20 on the map?

A. Yes, sir.

MR. GARY: I think that is all, Dr. Garcia.

THE COURT: Can you think of anything else to ask him?

MR. DEANDA: No, Your Honor.

THE COURT: Thank you, Dr. Garcia.

(Witness excused.)

THE COURT: Mr. Wolf, you may call

EXHIBIT 2, GARCIA DEPOSITION

Corpus Christi Times, April 5, 1962

LET'S ALL BE AMERICANS
LET'S VOTE LIKE AMERICANS

On Saturday we are to elect three Regents of Del Mar College. There are four candidates. Three of them are Anglos. The fourth is of Mexican ancestry. The three candidates who receive the most votes will be elected.

If the same thing happens that has happened in many previous elections, a letter signed by Latin American leaders will be mailed a day or two before the election to voters in the Del Mar district who have Latin names.

That letter, if it is like earlier ones, will urge every voter of Mexican ancestry to vote for the Latin candidate "solamenta."

That is, each voter will be asked to vote for oen candidate only, the Latin American, instead of for three. Every voter who does this deprives two other voters of one vote each, and gives an unfair mathematical advantage to the Latin American candidate.

This provess is called "single shotting." It has brought about the election of candidates for reasons of race, and without regard to comparative capabilities of candidates.

The process is un-American and un-Democratic. It is, in fact, self-imposed segregation. And Del Mar College led the way in desegregation in this area.

This "single shotting" process, in use over a term of years, has culminated in political organizations set up for the avowed purpose of electing citizens of Mexican descent to public office.

Inevitably, this process, if continued, will pit race against race. Already some Anglo voters are retaliating by refusing to vote for any candidate who has a Latin name.

We whose names are signed to this statement have been members of the Del Mar Board. We are proud of the progress that Del Mar has made and of the service it has rendered. We are sorry to see any effort to make a political footbal of Del Mar, or to use it to gain political advantage for any racial group or its leaders.

We urge all citizens of Mexican extraction to repudiate the efforts of those would-be leaders who ask votes for racial reasons.

In the Del Mar election, and in every other election, let all of us be good Americans and vote for the best qualified candidate regardless of race. Do not forfeit a part of your American right to vote for or against every candidate.

RAY WEST J.A. (DUTCH) REKTORIK

FRANCIS I. GANDY EARL R. CANTWELL

(Pd. Pol. Adv.)

EXHIBIT 3, GARCIA DEPOSITION

KRYS

1360
CORPUS CHRISTI, TEXAS

Have you voted today? Surveys from 16 polls on the west side of our city show that an unusually large number of people representing labor unions are voting in today's city runoff election. The count right now already exceeds the number who voted May the First. By contrast, on the south side of our city, the vote is very light and there were no lines at the polls. The steelworkers union that is helping to turn out this vote is the same group that sponsored the school busing case. You and I owe it to ourselves and our children to take a few minutes of our time to go vote so these special interest groups will not have the opportunity to improperly assert their influence on the school busing issue effecting our entire community. A little effort now can decide this election. This statement paid for by concerned parents, Michael Kendrick, Organizer.

THESE SPOTS WERE PASSED ON KRYS ON SATURDAY, MAY 22, 1971

1 time at 3:00 p.m.
5 times between 3:00 p.m. and 4:00 p.m.
4 times between 4:00 p.m. and 5:00 p.m.
THESE SPOTS WERE RUN ON OTHER RADIO STATIONS ALSO BESIDES KRYS RADIO STATION

EXHIBIT 4, GARCIA DEPOSITION

CONCERNED NEIGHBORS, INC.
P. O. Box 1518
Corpus Christi, Texas 78403
May 18, 1974

Re: Report on Current Developments Affecting Federal Desegregation Case.

Dear Concerned Neighbor:

Although we have been inactive to a certain extent since Hurricane Celia, we have made every attempt to keep current on all the developments in the school desegregation case and other developments that affect that case. To bring you up to day, Mr. Sneed and Mr. Scott T. Cook, the attorney for Concerned Neighbors, met with Dr. Williams and reviewed the present status of the school desegregation case and were informed of the continued position of the School Board to resist all efforts of the Court and the Plaintiffs to impose forced busing in the City. In addition, on the morning of May 7, 1971, Mr. Sneed, Mrs. Darlington, Mr. Clark and Mr. Cook met with three officials of HEW and made known the position of Concerned Neighbors concerning the busing of the school children of the City and the results of the Concerned Neighbors' investigation of the entire matter.

In addition to our group, another member of Concerned Neighbors, Mr. Saenz, had requested an audience with the HEW officials and appeared to converse with them at the same time we did. He made a very fine

presentation to the HEW officials and made a strong persuasive argument in favor of preserving the neighborhood schools and against forced busing in the community.

As a result of that conversation, we felt somewhat encouraged that the HEW officials were looking at the matter with as much objectivity as could be expected, in view of the Order under which they were operating from Judge Seals. It appears that Judge Seals has order HEW to present a plan to effect a unitary school system in Corpus Christi, which plan assumes that the school system has hereto fore discriminated against and fostered segregation in the schools among the Anglos, the Mexican-Americans and the Negro school children. It was our impression when we left the conference with the HEW officials that their plan would attempt to minimize displacement of children from the neighborhood schools as near as possible and still be consistent with the Order of Judge Seals.

We have been assured by the Superintendent of Schools and the attorneys for the School Board that any Order entered by Judge Seals or plan adopted by Judge Seals which does displace the school children or involves the busing of school children from their neighborhood schools to schools away from their own neighborhoods will be appealed to the Fifth Circuit Court of Appeals and the Supreme Court, if necessary.

It has also come to our attention that another matter currently before the voting public of Corpus Christi could significantly affect the school desegregation case and our objectives. As our original goals state, our purposes have been to preserve the neighborhood school concept and to promote education for all the school children, regardless of race or ethnic background. It now appears that these objectives may be affected by the run-off City Council Election to be voted on May 22nd. In view of these developments, we thought is proper and necessary to bring to your attention certain facts concerning some of the candidates in each of the two slates, that is the NOW PARTY slate and the PEOPLE'S PARTY slate.

The only candidate in the NOW PARTY which has made his views on the desegregation case known publicly is Dr. Roberto Bosquez running in Place 2 on the NOW PARTY ticket. On numerous occasions Dr. Bosques has made it clear that he has supported the School Board in its efforts to preserve the neighborhood schools and has consistently and persistently

as a member of the committee of twelve appointed by Judge Seals, opposed all those who were attempting to force busing of the school children throughout the district. The remaining candidates on the NOW PARTY slate, that is: Ronnie Sizemore, Mayor; J. Howard Stark, Place 1; Gabe Lozano, Sr., Place 3; Charles A. Bonniwell, Place 4; Ben D. Marks, Place 5; and Thomas V. Gonzalez, Place 6, have not made known in public their views concerning the school desegregation case, but each have indicated, as has the present City Council, that they believe the City Council has no proper function in injecting itself into the desegregation case or the matters arising therefrom.

On the PEOPLE'S PARTY slate, Oscar H. Reyna, running for Place 4, is an organizer for the Steel Workers' Union and answers to Paul Montemayor, his superior, who is an official of the Steel Workers' Union. As you will recall, the Plaintiffs in the school desegregation case, that is, Jose Cisneros, et al, who filed the suit against

the School District, were financed by the Steel Workers' Union and Paul Montemayor, to whom Oscar H. Reyna answers, testified in the case in support of the Plaintiffs and against the School District and neighborhood schools, Dr. Hector Garcis has been vigorously campaigning for his nephew, J. A. "Tony" Canales, the PEOPLE'S PARTY candidate for Place 6. As you will recall, in the first hearing held before Judge Seals, Dr. Garcia testified in support of the Plaintiffs and against the School District and supported the proposition of busing of the school children across the district. PEOPLE'S PARTY candidate, Ben F. McDonald, is a former law partner of James DeAnda, the attorney for Jose Cisneros and the other Plaintiffs in the school desegregation case, and a close associate of Mr. DeAnda. Mr. DeAnda is a major campaign supporter for Mr. McDonald in the City election. In addition, Mr. McDonald was the former campaign manager for Senator Yarborough and Senator Bentsen. Senator Yarborough has given aid, comfort and support to the Plaintiffs in the school desegregation case throughout the time it has been before the Court. George E. Clower, Jr., running for Place 2 on the PEOPLE'S PARTY slate, is a close associate of Mrs. Jim Alice Scott. Mrs. Scott is an organizer and an action member of Education Unlimited, which has persistently pursued the Plaintiff's objectives in the desegregation case and advocated the forced busing of the school children.

The remaining candidates on the PEOPLE'S PARTY slate have not indicated publicly their position with respect to the desegregation case.

The present City Council has not entered into the issues involved in the busing case, with which we are so vitally concerned. In fact, the present City Council has stated that the City Bus system is inadequate for the proposed busing of our school children.

The above facts are presented to you concerning the City run-off election to be held May 22nd for the purpose of informing you of the facts with respect to the candidates on each of the two slates which will appear on the ballot, insofar as those facts concern our objectives. We have not attempted and do not present any facts concerning any of these candidates with respect to any other subject other than as it affects our own objectives of preserving the neighborhood school concept and promoting education for all, regardless of race or ethnic background.

As matters develop in the desegregation case, we will again attempt to keep you informed of developments as they occur.

Very truly yours,

J. T. SNEED

C. R. CLARK

MRS. MARSHA DARLINGTON

R. S. BANNER

KEN BYRAM

MRS. RITA CROWNOVER

HOBART KENNEDY

B. G. KOHUTEK

J. E. REICHERT

L. K. SCHULTZ

T. E. THOMPSON

B. L. HOWE

TURN OUT AND VOTE MAY 22ND
DON'T LET OTHERS DECIDE YOUR CITY'S FUTURE

EXHIBIT 5, GARCIA DEPOSITION

CONCERNED NEIGHBORS, INC.

P. O. BOX 1518

Corpus Christi, Texas 78403

On Saturday, April 1, 1972, two places on the Corpus Christi Independent School District Board will be decided by public vote. The strength of the anti-busing efforts in Corpus Christi will be shown by the outcome of this local election. If you, the members of Concerned Neighbors, feel the threat of massive busing is over, you are mistaken! Our stay from the District Court is over July 1, 1972, and that could be shortened by a ruling from the Circuit Court. Electing School Board members dedicated to the neighborhood school concept is of the utmost importance to our case.

It is important that every member turn his attention toward the forthcoming election. The Board and Officers of Concerned Neighbors have endorsed two outstanding candidates for Places 6 and 7. Mrs. Marsha Darlington, a mamber of the Concerned Neighbors Board, is our choice for Place 7, and Dr. Cornell Barnard, incumbent, is recommended for Place 6. Be certain to exercise your right and duty as a citizen and vote for your candidates on Saturday, April 1.

Recently, Mr. Irwin Brown, President of N.A.A.C.P. presided over a Balck Ministerial Alliance meeting held for the purpose of meeting candidates for the School Board. At this meeting, Mrs. Hopkins, Mr. Richard Hicks, Mr. Johnny Bilano, and Mr. Emmanuel Saldana all stated publicly they

thought our School Board was operating a dual school system--the same belief that led Judge Seals to order the busing of 15,000 children. Following this meeting, the group expressed their support of Mrs. Hopkins and Mr. Saldana. Mr. Johnny Bilano has publicly stated he believes the use of buses is helpful in carrying out a sound education program.

Miguel Carranco and Frank Garcia are supported by La Raza. Concerned Neighbors has been solicited to support other independent candidates but after thorough study of the aspirants to these two places, we unanimously endorsed Mrs. Darlington and Dr. Bernard.

Dr. Barnard presently serves on the School Board and has held fast in his position to oppose busing in our School District. His efforts have been to serve all elements of the city and his willingness to want to serve, in light of the events of the recent past, readily suggests his integrity and wisdom to serve adequately.

Mrs. Darlington was one of the founders of Concerned Neighbors and has served in many capacities in the organization. She was a speaker at our mass rallies, a shopping center worker, and an organizer of newsletters in the past. She took an active role in the Comprehensive School Report conducted by C.N.I.

Mrs. Darlington met with the H.E.W. representatives when they entered the court case in Corpus Christi.. She was the spokesman for the Washington, D.C. delegation that was successful in obtaining

Justice Department intervention and in turn resulted in the Supreme Court's staying the lower court ruling for our Corpus Christi schools. Mrs. Darlington just returned from Pontiac, Michigan, where she participated in a nationwide conference of nieghborhood school advocates. Her service on the Tri-Ethnic Committee of 18 (formerly the Committee of 12) is also being carried on to advise the Federal District Judge. Her name was placed in nomination by the C.C.I.S.D. defendants.

Both of our endorces candidates have had extensive participation in school-oriented activities in our community and are well qualified. Your vote on April 1 will be a vote for the concerns and aims we have collectively supported through our organization, CONCERNED NEIGHBORS, INC.

We encourage you to turn out to vote. Absentee ballots must be filed before 5:00 p.m. on March 28 at the School Administration Building.

L. K. SCHULTZ	NEAL TURNER
F. G. HOWE	B. J. KOHUTEK, JR.
JIM SNEED	PAUL M. STRUNK
K. M. BYRAM	CAROL ZAVALA
ELIDA GONZALEZ	RITA CROWNOVER
THELMA L. PRESCOTT	FERALIAN SORRELL

EXHIBIT 6, GARCIA DEPOSITION

IT COULD BE LATER THAN YOU THINK

DR. FOY H. MOODY, ERNEST N. MILLS and ROY R. GILLELAND are completing their first term on the School Board, and have, upon the written petition of several hundred patrons of the School District agreed to stand for re-election tc a second term.

Dr. Moody, Mr. Mills and Mr. Gilleland have made exceptionally fine Board members. During their three years of service on the Board, teachers salaries have been raised to the highest level in the history of our schools, and more money has been spent on school buildings, in an effort to get all children off half day schedules than has ever been spent before in our school system in any similar length of time.

It was hoped by many patrons of the School District, who are genuinely interested in the betterment of our schools, that Dr. Moody, Mr. Mills and Mr. Gilleland would be accorded re-election to a second term (which their services and experience so richly merit) without opposition--and especially without opposition predicated on a racial basis.

Now, and for many years past, our Latin-American friends have had one of their own race on the School Board,--as is frankly agreed by all fair thinking people that they should have. However, this present Latin-American member still has two (2) years to serve on his current term, and naturally it was thought that our Latin-American friends would make no attempt to put an additional member on the School Board at this time,--and certainly not for specific

purpose of attempting to defeat an experienced Anglo-American member for a second term. But such does not seem to be the case for in the March 17th issue of the Latin-American publication "La Verdad", which designates itself as the Official Organ of the G. I. Forum (headed by Dr. Hector P. Garcia) there appeared on the first page of said publication a strong endorsement of Oscar Phillips as a candidate for the School Board, imploring all Latin-Americans to cast a vote for him.

We feel that it is most unfortunate when a few members of any race seek to gain, step by step, control of our public institutions, and especially such control of our free public schools.

If you subscribe (and we believe you will) to the above principle, we earnestly urge you to let nothing prevent you from going to the polls next Saturday to help put a stop to such an attempt to invclve our schools in racial politics. Not of our choosing, and much to our regret, the racial issue has been injected into this election by a politically ambitious minority group. Such being the case, we sincerely believe that you and your friends will best serve the interests of your schools and your community by voting to re-elect Dr. Moody, Mr. Mills and Mr. Gilleland.

<u>It could be later than you think--if you fail to vote Saturday, April 1st.</u>

FRIENDS OF OUR
PUBLIC SCHOOLS

EXHIBIT 7, GARCIA DEPOSITION

Dear Fellow Citizen:

Were you one of the 18% of the qualified voters of the Corpus Christi Independent School District who voted in the last School Trustee Election on April 1st?

If not, think of it! Only 5,716 people out of 31,740 qualified to vote in said School Election did so.

We all realize the importance of our schools to our City,--yet we apparently did not care enough about them to take thirty minutes, or less, to go to the polls and help select the men who will be charged with the responsibility of running our schools.

We have a chance to redeem ourselves. On Saturday, July 8, 1950 a special runoff School Trustee Election is being held and you, a poll tax payer, can vote.

Please, by all means, post yourself on the qualifications of the candidates right away; mark this important date on your calenday and remind all of your friends to do likewise. When the time comes won't you please do your dity and exercise your right and privilege of citizenship by voting:

IN THE SCHOOL TRUSTEE ELECTION JULY 8TH?

Since some of the school precincts have recently been changed in their boundaries a list of the voting places is enclosed for your information

so that no confusion will arise as to where you will vote on July 8th.

Sincerely yours,

Wesley E. Sealy, President
Rotary Club

J. F. Wakefield, President
Lions Club

Burdette Wein, President
Co-Operative Club

Jim Crace, President
Six Points Kiwanis Club

Lee Blackwood, President
North Beach Kiwanis Club

W. A. Cunningham, President
Kiwanis Club

Merle Griffin, President
Optimist Club

June Yates, President
Exchange Club

Roy Duncan, President
20 - 30 Club

Reba May, President
Business and Professional Women's Club